

**TrialWatch Submission to the UN Human Rights Committee
144th Session, June-July 2025
Review of Kazakhstan**

TrialWatch,¹ a Clooney Foundation for Justice initiative, presents this submission to the UN Human Rights Committee in advance of its review of compliance by Kazakhstan with the International Covenant on Civil and Political Rights (ICCPR).

This submission responds to the Committee’s request for information from the Government of Kazakhstan regarding “the broad formulation of the concept[] of ‘extremism’” and “the measures taken to ensure, in law and in practice, that persons charged with terrorism or ‘extremism’ offenses are afforded all procedural guarantees under Article 14 of the Covenant,”² as well as whether “steps have been taken to decriminalize all offenses relating to free expression.”³

This submission is based on TrialWatch monitoring of numerous trials of journalists and bloggers, human rights defenders, opposition figures, and other critical voices in Kazakhstan, including four cases under Kazakhstan’s anti-extremism laws and two cases under its ‘fake news’ law. Details of these cases, two of which are currently pending before this Committee under the individual complaints procedure, are set out in **Annex A** below.⁴ On the basis of the evidence gathered through this trial monitoring, TrialWatch has identified the following key concerns for the Committee’s consideration (discussed in detail below):

1. The **continued misuse of overly broad anti-extremism laws**, and in particular, expansive and unforeseeable interpretations of what constitutes ‘support for’ or ‘participation in’ the ‘activities’ of a designated extremist group, coupled with a refusal to make public the decisions designating groups as ‘extremist’ alongside extensive reliance on the reports of government-appointed experts to convict defendants;
2. The **criminalization of so-called ‘fake news’ under a vague and broad provision**, and without requiring the prosecution to actually prove either falsity or harm; and
3. The **imposition of punitive and vague ‘speech bans’** as part of sentencing, which appear designed to silence defendants.

¹ TrialWatch provides free legal aid in defense of free speech. Its mission is to expose injustice, help to free those unjustly detained and promote the rule of law around the world.

² List of Issues Prior to the Submission of the Third Periodic Report of Kazakhstan, UN Doc. CCPR/C/KAZ/QPR/3, Apr. 5, 2023, para. 9.

³ *Id.* at para. 23.

⁴ The individual communications submitted by TrialWatch and partners to the Committee are Alnur Ilyashev v. Kazakhstan (awaiting registration) and Aigul Utepova v. Kazakhstan (4903/2023) (pending).

These concerns echo those previously raised by this Committee⁵ and other international human rights experts.⁶ We urge the Committee to ask the questions set out below to the Government to address these concerns:

1. The Government has stated “[t]he necessary conditions have been established in Kazakhstan for all persons to exercise their right to freedom of speech.”⁷ Can the Government explain where it draws the line between free speech and ‘participation in’ the ‘activities’ of a banned group, and how these terms are defined (including, for example, in light of the 2018 and 2020 Yesil District Court decisions banning the “Democratic Choice of Kazakhstan” (DCK) and Koshe Party, which remain unpublished)?
2. The Government has stated that “[j]udges are independent in the administration of justice and are subject only to the Constitution and the law” and that a draft law under consideration would enhance defendants’ ability to put questions to experts or commission their own experts.⁸ Can the Government explain what measures it has taken to ensure that courts do not effectively outsource adjudication of questions of fact and law to government-appointed experts in a manner inconsistent with international standards?⁹
3. The Government has stated that the “dissemination of false information was partially decriminalized.”¹⁰ Can the Government describe what steps it has taken, if any, to reform Article 274 of the Criminal Code (‘Dissemination of knowingly false information’) in line with international standards?
4. Can the Government explain when and under what circumstances it considers ‘activity bans’ (provided for under *inter alia*, Article 405(1) and (2), and Article 50(3) of the

⁵ This Committee has previously expressed concern at the “the use of such [criminal] legislation on extremism to unduly restrict freedoms of . . . expression, assembly and association.” UN Human Rights Committee, Concluding Observations on the Second Periodic Report of Kazakhstan, UN Doc. CCPR/C/KAZ/CO/2 (2016), paras. 13, 49.

⁶ International and regional human rights experts have also stated that “[g]eneral prohibitions on the dissemination of information based on vague and ambiguous ideas, including ‘false news’ or ‘non-objective information’, are incompatible with international standards for restrictions on freedom of expression . . . and should be abolished.” UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression, and the African Commission on Human and Peoples’ Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda, FOM.GAL/3/17, Mar. 3, 2017, s. 2(a), <https://www.osce.org/files/f/documents/6/8/302796.pdf>. The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has cited “an overreliance on ‘judicial experts’” by the Kazakh authorities and has noted that the weight courts give to these “judicial experts” opinions “per se violates the principle of equality of arms and has profound implications on fair trials. UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, UN Doc. A/HRC/43/46/Add.1, Jan. 22, 2020, para. 39, https://digitallibrary.un.org/record/3852204/files/A_HRC_43_46_Add-1-ES.pdf.

⁷ Third Periodic Report Submitted by Kazakhstan under Article 40 of the Covenant, UN Doc. CCPR/C/KAZ/3, Apr. 2, 2024, para. 388.

⁸ *Id.* at paras. 357, 370.

⁹ *Cf.* European Court of Human Rights, *Dmitriyevski v. Russia*, App. No. 42168/06, Oct. 3, 2017 (addressing overreliance on experts and discussed *infra*).

¹⁰ Third Periodic Report Submitted by Kazakhstan under Article 40 of the Covenant, UN Doc. CCPR/C/KAZ/3, Apr. 2, 2024, para. 415.

Criminal Code) as a component of sentencing, to be necessary or proportionate, and how the scope of those bans are interpreted?¹¹

Misuse of Vague Anti-Extremism Laws

Articles 258(1)¹² and 405(2)¹³ of Kazakhstan’s Criminal Code operate in conjunction with its 2005 Law “On Countering Extremism”¹⁴ to criminalize support for and ‘participation’ in the ‘activities’ of extremist groups.¹⁵ The terms ‘participation’ and ‘activities’ are not defined in the law. Conviction under Article 405 adds an individual to a list of those “connected with the financing of terrorism or extremism” maintained by the Financial Monitoring Agency, and results in strict limitations on an individual’s finances.¹⁶

In March 2018, a Kazakh district court ruled that the political group DCK was an “extremist” organization. Two years later, in May 2020, Kazakh authorities banned another group, the Koshe Party, on the grounds that it was a successor of the DCK. As a result of these decisions, participation in the activities of these groups is criminalized pursuant to Article 405 of the Criminal Code. These decisions have not been published.¹⁷

The proceedings against **Marat Zhylanbaev**, **Duman Mukhammedkarim**, **Aigul Utepova** and **Ashkhat Zheksebaev**—all of them monitored by TrialWatch¹⁸—illustrate how these laws can sweep in swaths of peaceful, expressive conduct.

- **Marat Zhylanbaev** was convicted of ‘participation in’ the DCK for actions on behalf of his own, unregistered political party (*Alga, Kazakhstan!*), on the theory that his

¹¹ Note: in this submission we refer to such ‘activity bans’ as effective ‘speech bans,’ as discussed below.

¹² **Article 258(1) CC** provides that the “[p]rovision or collection of money and (or) other property,” as well as donations, rendering of information and other services, including financial services, to a person or persons, or a legal entity, “by a person who was aware of the terroristic or extremist nature of their activity,” or that the support will be used for such activity or to assist a terrorist/extremist group, “shall be punished by deprivation of liberty for a term of five to nine years with confiscation of property.” This submission references the Criminal Code here: https://online.zakon.kz/document/?doc_id=31575252&pos=4135;-55#pos=4135;-55

¹³ **Article 405(2) CC** provides that “[p]articipation in the activities of a public or religious association or other organization” which has been banned by a court decision in force in connection with such organization “carrying out...extremism or terrorism, ... shall be punished by” a fine or correctional works, or by the “restriction of liberty for the term of up to two years, with deprivation of the right to hold determined posts or to engage in a determined activity for the term of up to three years.”

¹⁴ The 2005 Law defines extremism as “actions of individuals and (or) legal entities ... following extremist purposes ... : forcible change of the constitutional system, violation of the sovereignty of the Republic of Kazakhstan, integrity, inviolability and inalienability of its territory, disruption of national security and defense capacity of the state, forcible seizure of power or forcible retention of power, creation, management and participation in the illegal paramilitary forces, organization of armed rebellion and participation in it, incitement of social ... strife (political extremism).”

¹⁵ Article 405 is limited to ‘participation in’ banned groups, while Article 258 applies more broadly to support for extremist activities, whether undertaken by a banned group or not.

¹⁶ Kazakhstan: Crackdown on Government Critics, Human Rights Watch, July 7, 2021, <https://www.hrw.org/news/2021/07/07/kazakhstan-crackdown-government-critics>

¹⁷ Though neither decision has been published, Human Rights Watch has stated that the decisions “were based on state-commissioned psychological-linguistic analyses” by “government ‘experts,’” which were not made public, and noting that the “court rulings did not cite any other evidence showing that either group had advocated or engaged in violence.” See Kazakhstan: Crackdown on Government Critics, Human Rights Watch, July 7, 2021, <https://www.hrw.org/news/2021/07/07/kazakhstan-crackdown-government-critics>.

¹⁸ The TrialWatch Fairness reports on these cases are discussed in Annex A and available at https://cfj.org/reports/?_report_country=kazakhstan.

party's platform resembled the DCK's,¹⁹ that he had called for rallies that coincided with rallies called for by the DCK, and that he had received advice from alleged members of the DCK regarding the promotion of *Alga, Kazakhstan!*. He was also convicted of support for the DCK for allegedly filming videos based on instructions from someone the prosecution asserted was a DCK leader, "in order to spread the ideology and illegal activities of the DCK extremist organization in the society" and for transferring funds to alleged DCK supporters via their family members.²⁰ By contrast, Mr. Zhylanbaev noted that "[d]emocratic parties [may] have similar demands because freedom of speech is paramount"; that the two individuals to whom he had sent money were members of *Alga, Kazakhstan!*, not DCK; and that the money was meant to be used for registering on behalf of *Alga, Kazakhstan!* in the then-upcoming elections.²¹ Throughout the proceedings, neither the prosecution nor the court alleged that Mr. Zhylanbaev had encouraged or taken part in violence; rather, the prosecution and court stressed that the DCK and *Alga, Kazakhstan!* merely made similar demands such as "return of the Constitution, closing of loans, [and] housing programs," and that this indicated "the similarity of ideas and political platforms between 'DCK' and 'AK.'"²²

- **Duman Mukhammedkarim**, a journalist, was convicted of 'participation in' the DCK based on an interview with Mukhtar Ablyazov, DCK's founder, and of support for the DCK for posting Mr. Ablyazov's fundraising appeal for his legal expenses. Neither the indictment nor the judgment identified any specific call in the interview for funds for the DCK, and the government's own experts conceded that the interview contained no calls for violence or incitement.²³
- **Aigul Utepova**, a journalist, was convicted of 'participation in' the DCK and Koshe Party for political commentary, including social media posts like "What if I say I support the DCK."²⁴
- **Askhat Zheksebaev** was convicted of 'organization of the activities of'²⁵ and 'participation in' the Koshe Party for peaceful social media posts and Telegram messages, including for instance, demands for the release of political prisoners and encouraging people to understand the Koshe Party's purposes.²⁶

Among the arguments advanced in these cases were that "a negative assessment of the current government" (**Zheksebaev**) and "discrediting the authorities [and] calling for a change in the

¹⁹ Covington & Burling LLP & Stephanie Farrior, TrialWatch Fairness Report, Kazakhstan v. Marat Zhylanbaev, Jan. 2025, pg. 40, https://cfj.org/wp-content/uploads/2025/01/Fairness-Report_Kazakhstan-Marat-Zhylanbaev-January-2025.pdf [hereinafter Kazakhstan v. Zhylanbaev].

²⁰ *Id.* pg. 16.

²¹ *Id.* pgs. 17–18.

²² *Id.* pg. 40.

²³ Covington & Burling LLP, with Vanja Skoric, TrialWatch Fairness Report, Kazakhstan v. Duman Mukhammedkarim, Jan. 2025, pg. 22, https://cfj.org/wp-content/uploads/2025/01/Fairness-Report_Duman-Mukhammedkarim_Kazakhstan-January-2025-Final.pdf [hereinafter Kazakhstan v. Mukhammedkarim].

²⁴ TrialWatch, with Éva Szeli, TrialWatch Fairness Report, Kazakhstan v. Aigul Utepova (2022), pgs. 22, 30, <https://cfj.org/wp-content/uploads/2022/04/EN-Aigul-Utepova-Fairness-Report-April-2022.pdf> [hereinafter Kazakhstan v. Utepova].

²⁵ Article 405(1) criminalizes 'organization of' the activities of an extremist group.

²⁶ Stephanie Farrior & TrialWatch, TrialWatch Fairness Report, Kazakhstan v. Askhat Zheksebaev et al. (2022), pgs. 16, 19, 20, 28, <https://cfj.org/reports/kazakhstan-v-askhat-zheksebaev-et-al/> [hereinafter Kazakhstan v. Zheksebaev].

constitutional order” (**Zhylyanbaev**) were evidence of ‘participation in’ an extremist group. In **Ms. Utepova’s** case, the prosecution framed ‘participation’ as encompassing the expression of views supportive of a banned organization on social media, even without any showing of coordination with the organization in question.²⁷ In **Mr. Mukhammedkarim’s** case, one of the government experts defined ‘participation’ to include “1. To be enthusiastic about something; to be with the crowd. 2. Commuting; socializing,” and specifically explained that “participation” in the DCK could include “promotion of the movement’s idea, preparation, publication, reproduction and distribution of its announcements, leaflets, posts and opinions, other information materials.”²⁸ These interpretations and applications cover an enormous amount of free speech.

Two tactics documented by TrialWatch in these cases compound the unforeseeably broad application of these laws.

Limiting Information:

In both **Mr. Zhylyanbaev** and **Mr. Mukhammedkarim’s** cases, the courts closed the proceedings, ostensibly based on concerns of individual witnesses, without addressing whether some of the trial could nevertheless have remained open. This is inconsistent with this Committee’s jurisprudence, which has previously found a violation of the ICCPR where the “State party failed to explain why it was necessary to close the entire trial . . . instead of closing only part of the trial in order to protect rights of [others].”²⁹

At the same time, in all four of the extremism cases described above, the defense was not given copies of the judgments banning the DCK or the Koshe Party. For instance, throughout the trial of **Askhat Zheksebaev**, defense counsel repeatedly requested access to the decisions banning the DCK party and the Koshe Party, emphasizing that without access to the decisions the proceedings constituted a “one-sided trial,” and stating that the prosecution’s “failure to comply with the court’s requirement to provide basic evidence of materials, in particular by a court decision . . . [is] an attempt to obstruct.” The requests for access were shut down by the judge, who stated that “the prosecutor gave an exhaustive answer. And this issue has been resolved.”³⁰ Likewise, in **Marat Zhylyanbaev’s** trial, the decision banning the DCK would have been highly relevant to defending against allegations that similarities between the DCK’s platform and that of *Alga, Kazakhstan!* rendered work on behalf of the latter tantamount to participation in the activities of the former. And yet it was not made available. The court did not invoke national security or public safety grounds in denying the defense access to the decision, merely describing the defense’s arguments in this regard as “unfounded.”³¹ No reasons were provided by the court in its judgment for this conclusory finding.³²

²⁷ Kazakhstan v. Utepova, pg. 54.

²⁸ Kazakhstan v. Mukhammedkarim, pg. 27.

²⁹ Human Rights Committee, Y.M. v. Russian Federation, UN Doc. CCPR/C/116/D/2059/2011, May 13, 2016, para. 9.2. *See also* Human Rights Committee, Saidov v. Tajikistan, UN Doc. CCPR/C/122/D/2680/2015, Sept. 20, 2018, para. 9.3

³⁰ Kazakhstan v. Zhylyanbaev, pg. 35.

³¹ Kazakhstan v. Zhylyanbaev, pg. 20.

³² The Interdistrict Criminal Court of Astana City, Case No. 7141-23-00-1/1030, Nov. 29, 2023., pgs. 1, 20; *see also* Court of Appeal of Astana City, Case No. 7141-23-00-1/1030, Jan. 19, 2024, pg. 7 (both judgments are referred to in Kazakhstan v. Zhylyanbaev).

Over Reliance on State-Appointed Experts:

Prosecutors and the courts in these cases routinely relied heavily on the reports of state-appointed experts in philology, psychology and political science, including as to points of law, in contexts where expert evidence from the defense was denied, and/or where reliance was placed on state expert evidence over contradictory evidence by the defense. This is contrary to the position under Kazakh law, whereby no evidence has a predetermined force and expert opinions have no greater weight than other evidence.³³ In the case of **Duman Mukhammedkarim**, for instance, the judgment recited the conclusions of the government-appointed experts and described the expert reports as “sufficiently clear and thorough, and ... well-substantiated, leaving no room for doubt.”³⁴ Likewise, in the case of **Marat Zhylanbaev** the judgment was based almost exclusively on expert testimony.³⁵

This is inconsistent with comparative European Court of Human Rights jurisprudence. In *Dmitriyevskiy v. Russia*, the Court found “unacceptable” where the domestic court had “bas[ed] their guilty verdict on the above-mentioned expert reports . . . fail[ing] to assess them and merely endors[ing] the linguistic expert’s conclusions.”³⁶

Criminalization of ‘Fake News’

While Kazakhstan has indicated that it has taken steps to “partially” decriminalize ‘fake news,’ in fact it has continued to prosecute journalists and bloggers and others critical of the government on charges of false information (or ‘fake news’) under Article 274(1) of the Criminal Code.³⁷

This provision is impermissibly vague and overly broad. **First**, it criminalizes sharing false “information,” which the European Court of Human Rights has previously referred to as an “indiscriminate approach to the assessment of speech” due to its failure to distinguish between statements of fact and value judgements, and thus amounting to a per se violation of the right to freedom of expression.³⁸ **Second**, it does not clearly define any of its terms, in particular “false information.”

The overbreadth and vagueness of this law are evidenced by the cases of blogger **Nazym Tabyldieva** and blogger and human rights defender **Alnur Ilyashev**, both monitored by

³³ Kazakhstan v. Mukhammedkarim, pg. 9.

³⁴ Kazakhstan v. Mukhammedkarim, pg. 20 (also describing the judgment as “resembl[ing] a ‘cut and paste’ of the text of the expert reports and the indictment, almost as if the trial itself had not taken place.”).

³⁵ Kazakhstan v. Zhylanbaev, pg. 20.

³⁶ European Court of Human Rights, *Dmitriyevski v. Russia*, App. No. 42168/06, Oct. 3, 2017, para. 113.

³⁷ **Article 274(1) CC** criminalizes the “dissemination of knowingly false information, creating a danger of violation of public order or infliction of substantial harm to the rights and legal interests of citizens or organization or the interests of society or the state, protected by the Law.” punishable by “a fine in the amount of up to one thousand monthly calculation indices or corrective labors in the same amount, or community services for a term of up to four hundred hours, or restriction of liberty for a term of up to one year, or deprivation of liberty for the same term.” Article 274(2)(3) CC covers the same actions “with the use of mass media or telecommunications networks,” with an increased sanction. For instance, in October 2024, months after submission of the Government’s Third Periodic Report, investigative journalist Daniyar Adilbekov was sentenced to four-and-a-half years’ imprisonment on fake news charges, among others. See Human Rights Watch, Kazakhstan: Ensure Journalist Gets Fair Appeal, Nov. 28, 2024, <https://www.hrw.org/news/2024/11/28/kazakhstan-ensure-journalist-gets-fair-appeal>.

³⁸ European Court of Human Rights, *Gorelishvili v. Georgia*, App. No. 12979/04, June 5, 2007, para. 38.

TrialWatch. In these cases, the courts failed to require the prosecution to establish the elements of the offense.

- In **Ms. Tabyldieva’s** case, she was prosecuted for fake news³⁹ for criticism of President Tokayev’s alleged pro-Russia policies, such as suggesting that the Kazakh Government “bows the people of the country to the Russian Federation” and “enters into its subjugation and slavery,” and for comments on Facebook expressing criticism of the prosecution of a government critic. But the court did not wrestle with whether her criticisms were in fact false (or address the potential use of exaggeration to express an opinion). For instance, the court simply relied on the fact that Ms. Tabyldieva was “aware that the Republic of Kazakhstan is an independent state” to find that her statement had been false,⁴⁰ and it failed to identify any evidence that her statements were likely to cause harm.⁴¹
- In **Mr. Ilyashev’s** case, he was prosecuted for fake news for three social media posts critical of the ruling party’s response to COVID-19. But at no point did the prosecution seek to prove, or the court require evidence, that his posts were false. And the court relied on an expert’s speculative assertion of potential harm, which found that “taking into account the peculiarities of the emotional state of the majority of the population in the conditions of the state of emergency, [there] is the danger of negative consequences in the form of implementation of acts of civil disobedience, namely, mass non-observance of quarantine, which, in its turn, will lead to a wide spread of the disease, social tension, acts of looting and, as a consequence, to financial losses of citizens and organizations.”⁴²

Imposition of ‘Speech Bans’

In all but one of the six cases described in this submission the defendants were sanctioned not only with imprisonment or other restrictions on liberty, and/or fines, but also with two to five-year “activity bans” which, effectively operate as ‘speech bans’:⁴³

- **Mr. Zhylanbaev** was given a three-year ‘speech ban’, denying him the “the right to engage in social and political activity, including the use of mass media and telecommunications networks.”
- **Mr. Mukhammedkarim** was given a three-year ‘speech ban’, denying him “the right to engage in socio-political topics in the mass media” expanded on appeal to also prohibit engaging in “public service related to meeting the political, cultural, and professional needs of citizens (citizens) with society.”
- **Mr. Zheksebaev** was given a five-year ‘speech ban’, denying him the right to engage in “social and political activities using the media and telecommunication networks.”

³⁹ She was also charged with “insulting public officials” under Article 378 of the Criminal Code. The judgment blurs any distinction between the ‘fake news’ and ‘insult’ charges.

⁴⁰ District Court No. 2 of the Bostandyk District in Almaty, Judgment, Nov. 10, 2023 (on file with authors).

⁴¹ *Id.*

⁴² Vânia Costa Ramos & Staff at the American Bar Association Center for Human Rights, TrialWatch Fairness Report, Kazakhstan v. Alnur Ilyashev, Mar. 2021, pg. 29, <https://cfj.org/wp-content/uploads/2023/07/fair-trial-report-kazakhstan-alnur-ilyashev.pdf> [hereinafter Kazakhstan v. Ilyashev].

⁴³ See Annex A for further details of each defendant’s sentencing.

- **Ms. Utepova** was given a two-year ‘speech ban’, denying her the right to “engage in social and political activities, including with the use of mass media and telecommunications networks.”
- **Ms. Tabyldiyeva** was given a five-year ‘speech ban’, denying her the right to engage in “social and political activities, as well as journalistic activities on social networks.”
- **Mr. Ilyashev** was given a five-year ‘speech ban’, denying him the right to participate in “civil and public activities, on voluntarily serving the political, cultural, and professional needs of society, [and] ... creating and taking part in the activities of political parties, public associations and foundations.”

As a punitive sanction against individuals whose rights to freedom of expression were already violated through criminal prosecution, the use of these ‘speech bans’ represents a further unlawful interference in the defendants’ rights to freedom of expression.⁴⁴

The law permitting these bans (including Articles 50 and 405(1) and (2) of the Criminal Code) and in particular its possibility to deprive individuals of the right to “engage in certain activities” is so broad as to encompass innumerable acts that are themselves protected by the right to freedom of expression. Further, the wording of bans in specific cases is also extremely broad, lacking the precision needed for individuals to reasonably adjust their behavior, making any subsequent detention for non-compliance arbitrary and unforeseeable. For instance, at one point Mr. Ilyashev “who has four degrees, did not even know if he could pursue any of the careers for which he is qualified, such as practicing law.”⁴⁵ If these bans are violated, courts can imprison the defendant for up to five days (or ten days for repeat violations).⁴⁶

Looking to the Committee’s jurisprudence on Article 25 of the Covenant, which provides an appropriate analogy, this Committee has held that “the exercise of the right to vote and to be elected may not be suspended or excluded except on grounds, established by law, which are objective and reasonable.”⁴⁷ The bans to which defendants in Kazakhstan are subject impose absolute prohibitions on various forms of speech and participation, far from “objective and reasonable.”

Conclusion

The tactics described in this submission—in particular the use of overbroad laws and effective ‘speech bans’ for those convicted under them—operate in tandem to create a chilling environment for speech in Kazakhstan, with individuals unable to know what kinds of speech might be criminalized and then silenced post-conviction.

⁴⁴ For further analysis of the lack of necessity and proportionality for speech bans, see *Kazakhstan v. Ilyashev*, pg. 39.

⁴⁵ Kyle Delbyck, *Instead of a Cell, a Muzzle: How Kazakhstan Stifles Critics and Avoids Criticism*, The Diplomat, June 23, 2023, <https://thediplomat.com/2023/06/instead-of-a-cell-a-muzzle-how-kazakhstan-stifles-critics-and-avoids-criticism/>.

⁴⁶ *Id.*

⁴⁷ UN Human Rights Committee, *Dissanayake v. Sri Lanka*, U.N. Doc. CCPR/C/93/D/1373/2005, July 22, 2008, para. 8.5.

Annex A: Factual Background to the Cases Monitored by TrialWatch

I. Extremism Cases

a. Duman Mukhammedkarim

i. Case Background

Duman Mukhammedkarim is a journalist and government critic who ran the independent YouTube channel *Ne Deidi?* in Kazakhstan.⁴⁸ In December 2022, he livestreamed an interview with exiled opposition leader Mukhtar Ablyazov, head of the banned Democratic Choice of Kazakhstan⁴⁹ (DCK).⁵⁰ In the comments, he shared an appeal by Mr. Ablyazov for funding to help with Mr. Ablyazov's legal expenses.⁵¹ During the interview, Mr. Mukhammedkarim asked Mr. Ablyazov whether any financial support would be considered support for 'an extremist.' Mr. Ablyazov clarified that it was the DCK, and not himself personally, that had been declared extremist, and that in any event the funds would not reach him.⁵² At the end of the interview, Mr. Mukhammedkarim said, "We can only change through a revolution. But no bloodshed. Peace. Right?" Mr. Ablyazov answered, "Yes, correct."⁵³ In January 2023, Mr. Mukhammedkarim re-uploaded the interview to the *Ne Deidi?* channel and reposted the comment.⁵⁴ In April 2023, he posted sarcastic videos mocking the government's crackdown on protests.⁵⁵

ii. Charges

Mr. Mukhammedkarim was arrested three times in 2023, initially on administrative charges, and ultimately charged on June 22, 2023, for violating Articles 258(1) and 405(2) of the Criminal Code.⁵⁶

iii. Trial

Mr. Mukhammedkarim's trial was closed to the public based on the request of an anonymous witness.⁵⁷ The prosecution relied on expert reports regarding the December, January and April videos.⁵⁸ These reports included the views of government-appointed experts in philology, psychology and political science.⁵⁹ In particular, the expert in political science concluded that

⁴⁸ Kazakhstan v. Mukhammedkarim, pgs. 3, 14.

⁴⁹ In 2001, former Kazakh officials Mukhtar Ablyazov and Galymzhan Zhakiyanov co-founded the DCK. The Kazakh government responded harshly, dismissing DCK members from official positions and prosecuting Ablyazov and Zhakiyanov, who were sentenced to six and seven years in prison, respectively, convictions which were widely condemned as politically motivated. While Mr. Ablyazov was subsequently pardoned, he later fled Kazakhstan and has been in exile ever since. He re-established the DCK in 2017 and in March 2018, the DCK was labeled an "extremist" organization by the Yesil District Court, in an unpublished decision.

⁵⁰ Kazakhstan v. Mukhammedkarim, pgs. 3, 14.

⁵¹ *Id.* at pgs. 3–4, 14.

⁵² *Id.* at pg. 35.

⁵³ *Id.*

⁵⁴ *Id.* at pg. 4.

⁵⁵ *Id.* at pg. 15.

⁵⁶ *Id.* at pgs. 16–17.

⁵⁷ *Id.* at pgs. 28–29.

⁵⁸ *Id.* at pgs. 17–18.

⁵⁹ *Id.* at pg. 17.

the words spoken by Mr. Mukhammedkarim in the video with Mr. Ablyazov contained “signs of propaganda of extremist ideas and views,” as well as “signs of participation in the activities of the extremist organization ‘DCK’” and “a call to financing the activities” of the “extremist” DCK, “as well as signs of organization of financing.”⁶⁰ The prosecution did not provide the defense with a copy of the court decision banning the DCK as extremist.⁶¹

iv. Judgment and Sentencing

On August 2, 2024, the trial court convicted Mr. Mukhammedkarkim. The final judgment mirrored the indictment and relied on the government’s expert reports.⁶² Indeed, the judgment described the expert reports as “sufficiently clear and thorough, and ... well-substantiated, leaving no room for doubt” and the TrialWatch Fairness Report on the case characterizes the relevant conclusions in the judgment as similar to “a ‘cut and paste’ of the text of the expert reports and the indictment, almost as if the trial itself had not taken place.”⁶³

Mr. Mukhammedkarim was sentenced to seven years in prison—six under Article 258(1), one under Article 405(2)—plus a three-year ‘speech ban’.⁶⁴ This ban stipulates that Mr. Mukhammedkarim is “depriv[ed] of the right to engage in socio-political topics in the mass media.”⁶⁵ On appeal, the court not only upheld the conviction but expanded the speech ban to include participation in conferences, debates, interviews, peaceful gatherings, activities of public organizations (including political parties), and other similar matters.⁶⁶

A TrialWatch report on the case found numerous violations of Mr. Mukhammedkarim’s rights and assigned the trial a grade of F.

b. Marat Zhylanbaev

i. Case Background

Marat Zhylanbaev, a former ultramarathon runner and elected official, founded the unregistered opposition party *Alga, Kazakhstan!* and was a vocal critic of the government.⁶⁷ Despite repeated attempts, the party was never registered, and Mr. Zhylanbaev was routinely detained for peaceful activism.⁶⁸

ii. Charges

Mr. Zhylanbaev was charged under Articles 258(2) and 405(2) of the Criminal Code, based on alleged ideological similarities between the political platform of his unregistered party, *Alga, Kazakhstan!*, and the banned opposition group DCK, as well as purported ties to the DCK.⁶⁹ The charges cited alleged “informational, financial, and other services,” including the filming of videos purportedly ‘based on instructions from the DCK,’ and the transfer of funds to *Alga*,

⁶⁰ *Id.*

⁶¹ *Id.* at pgs. 29–30.

⁶² *Id.*, pgs. 20–21.

⁶³ *Id.* at pg. 20.

⁶⁴ *Id.* at pg. 21.

⁶⁵ *Id.* at pg. 21.

⁶⁶ *Id.* at pg. 21.

⁶⁷ *Kazakhstan v. Zhylanbaev*, pg. 12.

⁶⁸ *Id.* at pgs. 2, 12.

⁶⁹ *Id.* at pgs. 12–13.

Kazakhstan! candidates, whom authorities claimed were affiliated with the DCK or its alleged successor, the Koshe Party.⁷⁰

iii. Trial

The prosecution relied heavily on a government expert report, which concluded that Mr. Zhylanbaev's "statements, appeals, and declaration . . . are defined as a negative opinion about the situation in the Republic of Kazakhstan, the activities of representatives of the authorities, as well as inducement to join the ranks of '*Alga, Kazakhstan*' to participate in protest actions, [and to] take actions aimed at changing the power in the country as a whole."⁷¹ Without citing or reviewing any of Mr. Zhylanbaev's or DCK's posts or statements, the indictment concluded that there were similarities between *Alga, Kazakhstan's!* "goals, tasks, methods and forms" and the "ideology of the DCK."⁷² Notably, the indictment did not allege that Mr. Zhylanbaev had engaged in violence or that the activities at issue entailed any sort of threat of violence.⁷³

The trial was closed based on a request from two anonymous witnesses.⁷⁴ The court relied on testimony from prosecution experts who testified that the DCK and *Alga, Kazakhstan!* had the "same goals," and that *Alga, Kazakhstan!* sought to encourage "the formation of a negative opinion about the situation in the Republic of Kazakhstan [and] the activities of representatives of the authorities," with the aim of "changing the government in the country as a whole."⁷⁵

The prosecution did not provide the defense with a copy of the court decision banning the DCK as extremist.⁷⁶

iv. Judgment and Sentencing

On November 29, 2023, the court convicted Zhylanbaev under Article 405(2) and Article 258(2) of the Criminal Code. The court relied entirely on the testimony of the prosecution's own fact and expert witnesses, including two anonymous witnesses of fact.

Mr. Zhylanbaev was sentenced to seven years in prison and given a three-year 'speech ban'.⁷⁷ The ban stipulates that Zhylanbaev will be "depriv[ed] of the right to engage in social and political activity, including the use of mass media and telecommunications networks."⁷⁸

A TrialWatch report on the case found numerous violations of Mr. Zhylanbaev's rights and assigned the trial a grade of F.

c. Aigul Utepova

i. Case Background

⁷⁰ *Id.* at pg. 23.

⁷¹ *Id.* at pg. 16.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* at pgs. 19, 28.

⁷⁶ *Id.* at pgs. 19–20.

⁷⁷ *Id.* at pg. 20.

⁷⁸ *Id.* at pg. 22.

Aigul Utepova is a well-known Kazakh freelance investigative journalist who has worked for the independent online outlets NewTimes.KZ and Saryagash Info in addition to publishing content on her Facebook account and YouTube channel, Aigul TV.⁷⁹

ii. Charges

Ms. Utepova was charged with violating Article 405(2) of the Kazakh Criminal Code based on Facebook posts and YouTube videos that criticized government policy and discussed inequality and political reform.⁸⁰ Specifically, the indictment cited acts such as posts to the effect of “What if I say that I support the DCK, would anyone be surprised?”; “There is an antivirus. And it’s called DCK”; and “Lessons of courage and bravery from Ablyazov.” Importantly, she was not accused of inciting violence.⁸¹

The indictment accuses Ms. Utepova of distributing “‘agitation and propaganda materials’ supporting the DCK and Koshe parties,” and concludes that “[b]y posting such materials, Utepova ... demonstrates how much she is an adherent of” and “systematically promotes ideological views of” the banned movements, as well as being “loyal to their leader M. Ablyazov.”⁸²

iii. Trial

The prosecution relied heavily on an expert report, which “established” that although the examined materials contained “no calls for the violent overthrow or change of the constitutional order or for the forced violation of the unity and integrity of the territory,” the “presence of critical information ... has a dysfunctional effect, leading to the formation of a critical attitude towards the current authorities.”⁸³ The expert opinion specified that the materials posted by Ms. Utepova could “psychological[ly] impact” both those who agreed with her opinions already and those “who d[id] not have a sufficient degree of criticality.”⁸⁴

iv. Judgment and Sentencing

On April 29, 2021, Ms. Utepova was convicted. The judgment relied on the prosecution’s expert opinion, even though it was based in part on acts that fell outside the scope of the criminal case.⁸⁵ The judgment failed to explain whether or how it addressed this discrepancy.⁸⁶

Ms. Utepova was sentenced to one year of restricted freedom, 100 hours of forced labor, and a two-year ‘speech ban’, effectively ending her journalism career.⁸⁷ The ban stated that Ms. Utepova would be “depriv[ed] [of] her ... right to engage in social and political activities, including with the use of mass media and telecommunication networks.”⁸⁸

⁷⁹ Kazakhstan v. Utepova, pg. 21.

⁸⁰ *Id.* at pg. 3.

⁸¹ *Id.* at pgs. 3, 22.

⁸² *Id.* at pgs. 21–22.

⁸³ *Id.* at pgs. 22–23.

⁸⁴ *Id.* at pg. 23.

⁸⁵ *Id.* at pg. 5. Some of the acts alleged occurred prior to the date when the Koshe Party was deemed extremist.

⁸⁶ *Id.*

⁸⁷ *Id.* at pg. 30.

⁸⁸ Nur-Sultan District court No. 2, (April 29, 2021), pg. 8.

A TrialWatch report on the case found numerous violations of Ms. Utepova's rights and assigned the trial a grade of D.

d. Askhat Zheksebaev

i. Case Background

Askhat Zheksebaev was a small business owner and politically-active individual.⁸⁹ The indictment against Mr. Zheksebaev centers on Facebook videos in which he expressed support for the Koshe Party and criticized the government.⁹⁰ In one video, for instance, he stated: "We the 'Koshe Party' movement, unite with all those people who want to be truly independent, develop, and want to prosper, and I urge you to unite in our movement."⁹¹

He also exchanged Telegram messages discussing filming anti-police violence videos, protest logistics, and the use of 'Zhuka' armbands, a symbol of peaceful protest.⁹²

ii. Charges

Mr. Zheksebaev was charged under Article 405 of the Kazakh Criminal Code with "organization" of and "participation" in the "activities" of the Koshe Party.⁹³ The charges allege that his peaceful online expression and private communications demonstrate a leadership role in the Koshe Party and involvement in organizing unauthorized protests.⁹⁴

iii. Trial

The prosecution's case against Askhat Zheksebaev rested largely on actions that occurred before the ban on the Koshe Party came into force.⁹⁵ Prosecutors, on the other hand, argued that Koshe was simply a successor to the DCK, claiming Zheksebaev and others had "[t]aken] measures to change the name and transform it to 'Koshe Party'" to continue DCK's alleged extremist activities.⁹⁶ This theory, however, relied almost entirely on the unpublished court decisions banning the DCK and Koshe Party, which were withheld from the defense.⁹⁷

To support its claims, the prosecution relied on three expert reports.⁹⁸ One stated Zheksebaev's communications promoted "a negative assessment of the current government" and called for change in power.⁹⁹ Another said Zheksebaev's conversations involved discussions of protests and support for activists; however, it explicitly stated there were no "calls for a violent seizure of power [or] violent change in the constitutional order."¹⁰⁰

⁸⁹ Kazakhstan v. Zheksebaev, pg. 17.

⁹⁰ *Id.* at pg. 19.

⁹¹ *Id.*

⁹² *Id.* at pg. 20.

⁹³ *Id.* at pgs. 3, 18–19.

⁹⁴ *Id.* at pg. 3.

⁹⁵ On May 19, 2020, the Yesil District Court banned the Koshe Party, labeling it extremist and deeming it a successor to the DCK. This came into legal force on June 26, 2020. Kazakhstan v. Zheksebaev, at pgs. 3, 22.

⁹⁶ Kazakhstan v. Zheksebaev, at pg. 23.

⁹⁷ *Id.*

⁹⁸ *Id.* at pg. 24.

⁹⁹ *Id.* at pg. 25.

¹⁰⁰ *Id.* at pgs. 25–26.

iv. Judgment and Sentencing

On October 11, 2021, the court convicted Mr. Zheksebaev of organizing and participating in the activities of a banned extremist organization under Articles 405(1) and (2) of the Criminal Code.¹⁰¹ The judgment relied heavily on the prosecution's expert reports, which are described as "confirm[ing] that from a thematic point of view, the conversations under study are united by a common theme and are aimed at informing about the activities of the 'Koshe Party' movement, the purpose of which is to call for actions aimed at changing the government."¹⁰² The court also fully adopted the prosecution's theory that the Koshe Party was a continuation of the DCK, thereby sidestepping the timing issue discussed above.¹⁰³ The court stated that "all defendants were adherents of the ideas promoted by the DCK movement ... [and] in order to continue the illegal activities of 'DCK,' Mr. Zheksebaev [and other defendants] took measures to change its name and transform it into 'Koshe Party.'"¹⁰⁴

Mr. Zheksebaev was sentenced to "imprisonment for a period of 5 (five) years with deprivation of the right to engage in social and political activities using the media and telecommunication networks for a period of 5 (five) years."¹⁰⁵

A TrialWatch report on the case found numerous violations of Zheksebaev's rights and assigned the trial a grade of D.

II. Fake News Cases

a. Alnur Ilyashev

i. Case Background

Alnur Ilyashev is a blogger and human rights defender. Between February and March 2020, Mr. Ilyashev made social media posts critical of the authorities, particularly their COVID-19 response.¹⁰⁶ In one post, he mocked the ruling party's relief efforts with the phrase "The mountain gave birth to a mouse," referencing its alleged failure to raise substantial funds.¹⁰⁷ Another post asked, "Party of Crooks and Thieves?" in response to reports of a party member's arrest.¹⁰⁸ He also criticized what he called "crisis media looting," claiming the ruling party falsely took credit for independent aid efforts, stating: "Many people already know the habits of the 'ruling' party of usurpers, as they have no illusions about its 'great generosity.'"¹⁰⁹

ii. Charges

¹⁰¹ *Id.* at pg. 28.

¹⁰² *Id.* pg. 28.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ *Id.* at pg. 4.

¹⁰⁶ Kazakhstan v. Ilyashev, pgs 9-10

¹⁰⁷ *Id.* pg. 10

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

Mr. Ilyashev was arrested in April 2020 and charged under Article 274(4)(2)¹¹⁰ of the Criminal Code.¹¹¹

iii. Trial

The prosecution relied heavily on the assessment of an expert, who concluded, without providing specifics, that given the emergency state created by COVID-19, Mr. Ilyashev's posts created "the danger of negative consequences ... [such as] acts of civil disobedience, namely, mass non-observance of quarantine, which, in its turn, w[ould] lead to a wide spread of the disease, social tension, acts of looting and, as a consequence, to financial losses of citizens and organizations."¹¹²

At no point during the proceedings did the prosecution present evidence that the information contained in Mr. Ilyashev's posts was false: that a party member had in fact not been arrested or that the party had raised more than 41 million dollars in its COVID-19 fundraising efforts.¹¹³ Notably, the posts relied on information that had been widely disseminated in the media: two of the posts directly linked to news articles.¹¹⁴ The prosecution likewise did not present evidence that Mr. Ilyashev had *knowingly* disseminated false information.¹¹⁵

iv. Judgment and Sentencing

On June 22, 2020, the trial court convicted Mr. Ilyashev. The court adopted the prosecution expert's claim that Mr. Ilyashev's posts were harmful during the "stressful, unstable emotional state" of the COVID-19 lockdown, but failed to explain what specific risks they posed.¹¹⁶ Citing the prosecution expert, the court vaguely claimed the posts had "signs of information" threatening public order, without providing further elaboration.¹¹⁷

Mr. Ilyashev was sentenced to three years of restricted freedom, including regular check-ins with a probation officer, including 300 hours of forced labor, and a five-year 'speech ban' prohibiting him from engaging in 'civil and political activities' and creating and taking part in the activities of political parties, public associations and foundations.¹¹⁸

¹¹⁰ Article 274(4)(2) provides for a sentencing enhancement to prosecutions under Article 274 in the event that the underlying acts occurred during a state of emergency. On March 15, 2020, Kazakhstan declared a state of emergency due to the COVID-19 pandemic. Kazakhstan v. Ilyashev, pgs. 4–5, 10.

¹¹¹ Kazakhstan v. Ilyashev at pg. 10

¹¹² *Id.* at pg. 38.

¹¹³ *Id.* at pg. 28.

¹¹⁴ *Id.*

¹¹⁵ *Id.*

¹¹⁶ *Id.*, pgs. 29–30.

¹¹⁷ *Id.* at pg. 30.

¹¹⁸ *Id.* Other journalists and those exercising their rights to freedom of expression have also received sentences that include 'speech bans'. For example, Temirlan Yensebek, a Kazakh journalist and founder of the satirical outlet Qaznews24, was convicted under Article 174 for "incitement of ethnic hatred" after posting a rap song, "Yo, Orystar" ("Yo, Russians"). His sentence included a five-year 'speech ban' prohibiting him from journalism, political or human rights work, attending rallies, giving interviews, using social media, or participating in live or online events. See Committee to Protect Journalists, Kazakh Journalist Temirlan Yensebek Sentenced to 5 Years of Restricted Freedom, Apr. 17, 2025, <https://cpj.org/2025/04/kazakh-journalist-temirlan-yensebek-sentenced-to-5-years-of-restricted-freedom/?utm=>; ORDA, Temirlan Yensebek's Lawyer Files Appeal, Apr. 25, 2025, <https://en.orda.kz/temirlan-yensebeks-lawyer-files-appeal-6132/?utm=>.

Given the vague and overly broad nature of his ‘speech ban’, Mr. Ilyashev sought clarification from the court. The court ambiguously responded: “If you think that you are prohibited from engaging in any civil and public activity ... then it is prohibited ... if not, then you can.”¹¹⁹ This left Mr. Ilyashev unsure whether activities like teaching or writing were allowed.¹²⁰

A TrialWatch report on the case found numerous violations of Ilyashev’s rights and assigned the trial a grade of D.¹²¹

b. Nazym Tabyldiyeva

i. Case Background

Nazym Tabyldiyeva¹²² is a blogger and government critic. In September 2022, she posted a 12-minute video on social media criticizing President Tokayev’s perceived pro-Russian policies.¹²³ Soon after, prosecutors, without informing her, opened a criminal case under Article 274.¹²⁴ However, in December 2022, the investigation was dropped after authorities concluded that her video posed no threat to public order and that she lacked the intent required to establish criminal liability.¹²⁵

ii. Charges

Despite the closure of the investigation, the case was revived when Ms. Tabyldiyeva continued to post government criticism online. In July 2023, she was charged not only under Article 274 but also under Article 378, which criminalizes “insulting a government official in the performance of their duties.”¹²⁶

iii. Trial

The prosecution alleged that some of her statements, such as the Kazakh government “bows the people of the country to the Russian Federation,” were knowingly false, but they offered little proof.¹²⁷

iv. Judgment and Sentencing

¹¹⁹ TrialWatch, Kazakhstan: Court Refuses to Clarify Activist’s Sentence, Further Violating his Right to Freedom of Expression, Apr. 5, 2021, <https://cfj.org/news/kazakhstan-court-refuses-to-clarify-activists-sentence-further-violating-his-right-to-freedom-of-expression/>.

¹²⁰ *Id.*

¹²¹ On May 13, 2022, the UN Working Group on Arbitrary Detention issued an opinion (U.N. Doc.A/HRC/WGAD/2022/2) finding Mr. Ilyashev’s detention arbitrary and his arrest, detention, prosecution and conviction to be in violation of various guarantees under international law. The Government of Kazakhstan has not, however, implemented the Working Group’s recommendations. TrialWatch has since submitted an individual communication regarding Mr. Ilyashev’s case to this Committee.

¹²² A TrialWatch Fairness Report on Ms. Tabyldiyeva’s case is forthcoming.

¹²³ See R.T. Usserov, Senior Investigator of Almaty Police Department, *Order to Terminate Pre-Trial Investigation* (Dec. 20, 2022) (on file with authors).

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ Bostandyk District Court of Almaty Region, *Judgment*, Case No. 7550-22-00-1/418 (Nov. 10, 2023) (on file with authors).

¹²⁷ See Revised Indictment (Aug. 31, 2023); Monitor Notes (Oct. 19, 2023); Monitor Notes (Nov. 10, 2023) (on file with authors).

On November 10, 2023, the trial court convicted Tabyldieva on all charges. The court adopted the prosecution's arguments wholesale and failed to distinguish between the charges of spreading fake news under Article 274 and insulting government officials under Article 378.¹²⁸ Instead, the court repeatedly conflated the legal standards, citing prosecution experts who claimed her video and subsequent posts could "harm the honor and dignity" of officials, and treating criticism as both fake news and insult.¹²⁹

Further, the court presumed falsity and knowledge of such alleged falsity. For example, the judgment found that Ms. Tabyldieva "knowingly disseminated false information that posed a threat to public order" because she stated Kazakhstan was being subjugated by Russia,¹³⁰ while presumably aware of the fact that Kazakhstan remains an independent state, without grappling with the possibility that an independent state could also be under the influence of another state.

Ms. Tabyldieva was sentenced to 18 months of house arrest and given a five-year 'speech ban'.¹³¹ The ban bars Ms. Tabyldieva "from engaging in social and political activities, as well as journalistic activities on social networks."¹³²

¹²⁸ District Court No. 2 of the Bostandyk District in Almaty, Judgment, Nov. 10, 2023 (on file with authors).

¹²⁹ *Id.* at pg. 5.

¹³⁰ *Id.* at pg. 1.

¹³¹ *Id.* at pg. 8.

¹³² *Id.*