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## Politically Targeted, Economically Isolated

How Kazakhstan's Financing Terrorism List Compounds Human Rights Harms



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- Summary.....1**
- Recommendations ..... 4**
- Methodology..... 6**
- Ongoing Crackdown on Government Critics .....7**
- Countering “Extremism” in Kazakhstan ..... 9**
- Lack of Information about the List.....13**
- Violations of Economic, Social, and Cultural Rights .....17**
  - Access to Work ..... 17
  - Interference with the Access to Social Security, Benefits and Entitlements ..... 21
  - Arbitrary Limits on Lawful Financial Transactions.....22
- Lack of Legal Remedy..... 25**
- Kazakhstan’s International Obligations .....27**
- Acknowledgements..... 29**

## Summary

Gulzipa Dzhaukerova was a schoolteacher before she got involved in civic activism. She told Human Rights Watch that, even as a teacher, she got in trouble with school administrators because she spoke openly to her students about authoritarianism in Kazakhstan. Eventually the school asked her to leave. Dzhaukerova took up various jobs, including selling goods at the bazaar and trying to run a small business, after she left teaching.

Dzhaukerova was prosecuted twice on “extremism”-related charges in recent years, sentenced on each occasion, in 2019 and again in 2021, to a one-year non-custodial “restricted-freedom” sentence. Both times she was banned from engaging in political activities for two and three years, respectively. Her participation in peaceful protests was treated as evidence of involvement in political opposition groups that a court deemed “extremist” and banned, even though the groups have never carried out, nor advocated, violence.

Although Dzhaukerova was not found guilty of financing or committing any acts of violence or terrorism, because she was convicted on an extremism-related charge, she was automatically added to Kazakhstan’s “list of organizations and people associated with financing terrorism and extremism” (“Financing Terrorism List”). People on the list are subject to “targeted financial sanctions related to the prevention of terrorism and the financing of terrorism” under article 12 of Kazakhstan’s 2009 money laundering law (officially, the law “On combating the legalization (laundering) of proceeds from crime and the financing of terrorism”).

In practice, this has meant she is subject to significant financial restrictions, including being blocked from accessing her bank accounts or using credit or debit cards, or conducting certain financial transactions at the post office or notary. Dzhaukerova told Human Rights Watch that, because of the impact the restrictions have had, she has had limited ability to buy basic staples for her family, and at times has rationed portions of food to ensure her 14-year-old son has enough to eat.

Dzhaukerova is not alone. At time of writing, the Financing Terrorism List included just over 1,400 people, nearly half of whom, like Dzhaukerova, were convicted of “extremist” or

“terrorist” offences under Kazakhstan’s criminal code that are extremely problematic as they are overly broad, used to criminalize legitimate exercise of freedom of speech and expression protected by international law, and do not actually involve committing or advocating any acts of violence, far less financing terrorism. All convicted of these dubious offences face state-imposed financial restrictions.

The Kazakhstan government has a duty to protect citizens against violence; criminal laws to prevent terrorism, violent extremism, and the financing of terrorism, which are appropriately drafted with precision to target specific criminal activity and not open to misuse, can be legitimate measures in fulfilling this duty. At present, however, relevant Kazakh laws do not distinguish between violent and non-violent “extremism.”

Independent experts and bodies, including the United Nations special rapporteur on the promotion and protection of human rights while countering terrorism, have raised serious concerns about the provisions in Kazakhstan’s criminal code relating to extremism and terrorism that are vaguely worded and overbroad, and which are used to criminalize activities and speech, such as peaceful protests against government policies, which are protected under international human rights law.

The serious harm of politically motivated convictions under such broad laws, which has been well-documented by local and international rights groups, and by international human rights bodies, is compounded by the fact that affected individuals are additionally and automatically added to the Financing Terrorism List, meaning they are subject to the financial restrictions laid out in Kazakhstan’s 2009 money laundering law. These financial restrictions—when applied to people who have not engaged in, instigated, or financed violence—are unjustified and inappropriate. Not only are there potential serious procedural issues given the manner in which they are imposed, the financial restrictions have also led to violations of economic and social rights guaranteed under international human rights law, including the rights to an adequate standard of living and access to work and social security. This report documents and brings to light abuses stemming from inclusion on the Financing Terrorism List.

Kazakhstan should exclude crimes qualified as “extremist” from automatic inclusion on the Financing Terrorism List, and immediately lift financial restrictions on anyone currently on the list who was convicted of non-violent “extremist” or “terrorism” crimes. They should

revise the provisions in the criminal code on extremism and terrorism so that they are drafted with sufficient precision to guarantee legal certainty and not to capture legitimate exercise of freedoms of speech, expression, and association, or violate other rights protected by international law.

Kazakhstan's international partners should urge the government to end its crackdown on government critics and others on overbroad extremism-related charges and ensure that legislation pertaining to terrorism or extremism complies with international human rights law.

## Recommendations

### The Government of Kazakhstan should:

- Bring extremism and terrorism-related laws into full compliance with Kazakhstan's international obligations by, among other things, revising the definition of "extremism" in national legislation.
- Implement the recommendations of the United Nations special rapporteur on the promotion and protection of human rights while countering terrorism following her visit to Kazakhstan in 2019.
- Review how individuals are designated for inclusion on the Financing Terrorism List with a view to ending the automatic inclusion of people convicted on "extremism" or "terrorism"-related charges for actions or speech that did not incite or involve violence and ensuring full due process in the process of identifying those to be put on the list to prevent other arbitrary and unjustified inclusion.
- Ensure that financial restrictions tied to the financing or committing of terrorism do not extend to lawful financial transactions, such as, but not limited to paying public transportation costs, having full access to wages earned, and buying life or car insurance.
- Review how individuals on the Financing Terrorism List are flagged in electronic systems in Kazakhstan, so they are not penalized due to their personal identification numbers being blocked.
- Allow free speech and criticism of the authorities without fear of retribution.
- Allow political opposition groups to carry out peaceful activities in Kazakhstan and to register their parties without fear of retribution, in accordance with Kazakhstan's international obligations.
- Commission an independent review of all convictions on "extremist" criminal charges and ask the courts to vacate all convictions imposed on people simply for alleged membership in or support of a peaceful political opposition group.

### Kazakhstan's international partners should:

- Call on the government of Kazakhstan to revise the definition of "extremism" in national legislation so it complies with Kazakhstan's international obligations and

implement the recommendations of the United Nations special rapporteur on the promotion and protection of human rights while countering terrorism.

- Call on the government to commission an independent review of all convictions on extremist-designated criminal charges and to stop targeting perceived or actual members of peaceful political opposition groups banned as “extremist.”
- Press Kazakhstan’s authorities to immediately release from prison, pre-trial detention, or house arrest, and lift probation sentence and conditions, and other restrictions on all those prosecuted for the peaceful expression of critical views.
- Review policies, bilateral cooperation, and the provision of financial resources or material support for Kazakhstan government initiatives to counter violent terrorism to ensure they are not de facto complicit in violations of fundamental human rights.
- Within the framework of bilateral trade and cooperation agreements and human rights dialogues, ensure that Kazakhstan is held to its international obligations to put human rights at the core of counterterrorism strategies.

### **The Financial Action Task Force member states and leadership should:**

- Ensure that Kazakhstan fully complies with Recommendation 6 to ensure that no one is wrongfully subjected to targeted financial sanctions for non-violent actions or speech protected under international human rights law.
- Closely monitor Kazakhstan’s anti-terrorism conduct and consider lowering its FATF compliance status if abuses persist.

## **Methodology**

Human Rights Watch conducted research for this report in late February and early March 2024 in two cities in Kazakhstan, Astana and Almaty. Additional interviews were conducted remotely in April 2024 with people in Astana, Atyrau, Uralsk, and Kyzylorda. Researchers interviewed 18 people, 15 of whom had been prosecuted on extremism- or terrorism-related charges, and three others whose adult children were prosecuted on such charges. Human Rights Watch also interviewed two human rights lawyers in Almaty and reviewed relevant court documents and media articles pertaining to several of the cases mentioned in this report.

In April, Human Rights Watch sent a written summary of our findings to the Foreign Affairs Ministry requesting a government response. On June 3, Human Rights Watch received a written response. Information provided in that letter is reflected in the report below.

Interviews were conducted in Russian by Human Rights Watch researchers fluent in Russian and English. Human Rights Watch informed all interviewees of the purpose and voluntary nature of the interview. Participants gave oral informed consent to participate in interviews and agreed to the use of their names. They received no compensation for speaking to Human Rights Watch.

## Ongoing Crackdown on Government Critics

The Kazakhstan government has long restricted the rights to peaceful assembly, expression, and association, including by using vague and overbroad criminal charges relating to “terrorism” and “extremism” to harass and prosecute political opposition activists and other independent government critics. Authorities have also targeted peaceful religious persons using these overbroad, vague “terrorism” and “extremism”-related charges.

In March 2018, an Astana court ruled that the Democratic Choice of Kazakhstan (DVK), a political opposition group, was an “extremist” organization and banned its activities throughout Kazakhstan, including online and on social media networks.<sup>1</sup> In May 2020, some months after activists announced the formation of a new group, the Koshe Party, it was also banned by court order as “extremist,” with authorities contending that it was the same as DVK under another name.<sup>2</sup> The decisions to ban the groups were based on state-commissioned psychological-linguistic analyses of the groups’ material posted on social media. The court rulings did not cite any other evidence showing that either group had advocated or engaged in violence.

Since 2018, authorities across Kazakhstan have ramped up efforts to suppress political opposition activism. In July 2021, Human Rights Watch documented how authorities had increased their misuse of “extremism” charges to harass and prosecute government critics.<sup>3</sup> The report documented how police targeted at least 135 people across the country with criminal investigations and prosecutions for alleged participation in banned

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<sup>1</sup> DVK was founded and is led by Mukhtar Ablyazov, an exiled opposition figure who was once a banker and a government minister. Authorities in Kazakhstan prosecuted him in 2017 in absentia on serious criminal charges, including fraud and extortion, and separately in 2018 on one count of murder. Ablyazov has rejected the charges, saying they are politically motivated. See “Astana ruled Ablyazov’s DVK as an ‘extremist organization’ (“Астана приравняла ДВК Аблязова к «экстремистским организациям»”), Radio Azattyk, March 13, 2018, <https://rus.azattyq.org/a/29095709.html> (accessed July 30, 2024).

<sup>2</sup> “In Kazakhstan the opposition movement ‘Koshe Party’ was banned as a successor to DVK (“В Казахстане запретили оппозиционное движение “Көше партиясы”, его считают преемником ДВК”), *Current Time*, May 19, 2020, <https://www.currenttime.tv/a/vlasti-kazahstana-zapretili-oppozitsionnoe-dvijenie/30621072.html> (accessed July 30, 2020).

<sup>3</sup> “Kazakhstan: Crackdown on Government Critics,” Human Rights Watch news release, July 7, 2021, <https://www.hrw.org/news/2021/07/07/kazakhstan-crackdown-government-critics>.

“extremist” political opposition groups for nothing more than the peaceful expression of their critical views.

Police continue to routinely break up peaceful protests and subject activists to preventative detentions in advance of publicly announced rallies. Outspoken government critics engaged in peaceful activism continue to face regular police harassment, including unfounded arrest and criminal charges for alleged membership in so-called banned “extremist” organizations.

In November 2023, the opposition leader Marat Zhylyanbaev was sentenced to seven years in prison on charges of “financing extremist activities” and “membership in a banned extremist organization.”<sup>4</sup> His sentence was upheld on appeal. On August 2, a Kazakh court sentenced Duman Mukhammedkarim, an independent journalist and activist, held in pretrial detention since June 2023, to seven years in prison on charges of “financing extremist activities” and “participating in the activities of a banned extremist organization.”<sup>5</sup> On August 16, 2024, another civic activist, Asylbek Zhamuratov, was sentenced to seven years in prison on the same charges.<sup>6</sup>

Activists have been trying unsuccessfully for over two years to register the “Alga, Kazakhstan!” opposition party, with Kazakhstan’s Justice Ministry rejecting their application two dozen times as of this writing.<sup>7</sup>

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<sup>4</sup> “Kazakhstan: Government Critic on Trial for ‘Extremism,’” Human Rights Watch news release, November 8, 2023, <https://www.hrw.org/news/2023/11/08/kazakhstan-government-critic-trial-extremism>.

<sup>5</sup> “Kazakhstan: Baseless ‘Extremism’ Case Heads to Court,” Human Rights Watch news release, February 8, 2024. <https://www.hrw.org/news/2024/02/08/kazakhstan-baseless-extremism-case-heads-court>.

<sup>6</sup> “The court sentenced the activist Asylbek Zhamuratov to 7 years in prison” (“Суд приговорил активиста Жамуратова Асылбека к 7 годам лишения свободы”) Terek, August 16, 2024, <https://tirik.info/42170-2> (accessed August 19, 2024).

<sup>7</sup> Toiken, Saniya, “Police paid a visit to activists who applied for ‘Alga, Kazakhstan’ party registration for the 24<sup>th</sup> time” (“К активистам, 24-й раз подавшим на регистрацию партии «Алга, Казахстан!», пришла полиция”), Radio Azattyq, April 24, 2024, <https://rus.azattyq.org/a/32919069.html> (accessed May 27, 2024).

## Countering “Extremism” in Kazakhstan

Human Rights Watch and other rights groups and experts have documented how the vague and overbroad definitions of “extremism” and “terrorism” in Kazakhstan laws and their broad applicability to non-violent acts allow for undue restrictions on and violations of fundamental human rights, including freedoms of religion, expression, assembly, and association.<sup>8</sup> The former United Nations special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, noted in her 2019 report on Kazakhstan that “the term “extremism” has no purchase in binding international legal standards and, when employed as a criminal legal category, is irreconcilable with the principle of legal certainty and is per se incompatible with the exercise of certain fundamental human rights.”<sup>9</sup>

In the years since Ní Aoláin’s visit to Kazakhstan, authorities have not taken any steps to narrow the definition of “extremism” per Ní Aoláin’s recommendations, but rather broadened the definition of terrorist activities and increased powers of the National Security Committee and Internal Affairs bodies, including during times of “mass disorder.”<sup>10</sup> When asked what steps the government has taken to implement Ní Aoláin’s recommendations, the Foreign Affairs Ministry stated only that article 174 of the criminal code (“inciting discord”) had been amended to include a fine, in addition to restricted freedom and prison sentences.<sup>11</sup>

Kazakhstan’s Criminal Code contains 15 offenses that are qualified as “terrorist” offenses, and 12 that are qualified as “extremist” offenses.<sup>12</sup> Anyone convicted of either type of offense and whose verdict has entered into force is automatically put on the Financing

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<sup>8</sup> See, for example, Kazakhstan: Crackdown on Government Critics, Human Rights Watch news release, July 7, 2021, <https://www.hrw.org/news/2021/07/07/kazakhstan-crackdown-government-critics>.

<sup>9</sup> UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Ní Aoláin, Fionnuala, visit to Kazakhstan, A/HRC/43/46/Add.1, January 22, 2020, <https://www.ohchr.org/en/documents/country-reports/ahrc4346add1-visit-kazakhstan-report-special-rapporteur-promotion-and> (accessed April 25, 2024).

<sup>10</sup> Civic Solidarity, *No Country for Human Rights – Comparative Analysis of Anti-Extremist Legislation and its implementation in Eastern Europe and Central Asia*, 2023, <https://www.ecoi.net/en/file/local/2103324/A19-No-Country-for-HR%E2%80%94v7-A19-2024.pdf> (accessed April 25, 2024).

<sup>11</sup> Foreign Affairs Ministry letter to Human Rights Watch, June 3, 2024. (Annex ii)

<sup>12</sup> Criminal Code of the Republic of Kazakhstan, arts. 30 and 39, <https://adilet.zan.kz/rus/docs/K1400000226>.

Terrorism List regardless of whether they committed or incited any violence, or financed any terrorist or violent extremist activities.<sup>13</sup> Additionally, the Prosecutor General’s Office can identify “individuals involved in terrorist and extremist activities” for inclusion in the list.<sup>14</sup> This process is done without the Prosecutor General’s Office having to present verifiable evidence of the basis for their designation of the person as involved in terrorist or extremist activities to a judge or independent judicial body.<sup>15</sup> This leaves the process open to abuse and creates real risk that individuals can be arbitrarily identified for inclusion on the list.

Within 24 hours of being put on the Financing Terrorism List, “subjects of financial monitoring,” which refers to entities that conduct financial transactions, such as banks, notaries, and post offices, are required by the government to freeze transactions relating to the individual’s finances or property, including by blocking their access to bank accounts, preventing insurance payments, and “refusing to carry out other transactions with money and (or) other property.”<sup>16</sup>

What this means in practice is that individuals on the list are blocked from accessing their bank accounts or using their credit cards for making purchases or conducting certain financial transactions at the post office or with a notary. Being on the list interferes with their ability to get a job, and if they have a job already, by law, they cannot withdraw more than the equivalent of the minimum wage, an amount set annually by the government, and only if they are granted permission by the authorities to do so.

“I consider it an economic blockade,” said Abaibek Sultanov, who was prosecuted in May 2021 on extremism-related charges because of his civic activism.<sup>17</sup> Darkhan Valiev, another

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<sup>13</sup> Law of the Republic of Kazakhstan, “On combating the legalization (laundering) of proceeds from crime and the financing of terrorism” №191-IV of August 28, 2009, art 12, subsection 4-3, [https://online.zakon.kz/Document/?doc\\_id=30466908&pos=670;0#pos=670;0](https://online.zakon.kz/Document/?doc_id=30466908&pos=670;0#pos=670;0).

<sup>14</sup> Ibid., art 12, subsection 4 – 6.

<sup>15</sup> Kazakhstan International Bureau for Human Rights and Rule of Law, *International Standards and Legislation of the Republic of Kazakhstan Relating to Restrictions on the Rights of Persons Convicted of Terrorist and Extremist Crimes to Use Their Property, Including Monetary Funds*, (Almaty, 2018), section 4.1.1. Copy on file with Human Rights Watch.

<sup>16</sup> Law of the Republic of Kazakhstan, “On combating the legalization (laundering) of proceeds from crime and the financing of terrorism” №191-IV of August 28, 2009, art 13, subsection 1-1, [https://online.zakon.kz/Document/?doc\\_id=30466908&pos=670;0#pos=670;0](https://online.zakon.kz/Document/?doc_id=30466908&pos=670;0#pos=670;0). See also court ruling in *Umbetaliev vs. Halyk Bank* (copy on file with Human Rights Watch).

<sup>17</sup> Human Rights Watch interview with Abaibek Sultanov, Almaty, March 1, 2024.

civic activist prosecuted twice in recent years on similar charges, and who is now on the Financing Terrorism List, described it as “being left completely without means of survival.”<sup>18</sup>

While it is possible that some of the 1,433 people (number current as of March 31, 2024) on the state’s Financing Terrorism List committed or instigated violent acts, the people Human Rights Watch interviewed for this report were prosecuted on “extremism” or “terrorism” charges for peaceful political or religious activities or speech under articles 405 – “organizing or participating in the activities of a public or religious association or other organization after a court decision banning their activities or liquidating them in connection with extremism or terrorism;” 174 – “inciting social, ethnic, tribal, racial, class or religious discord;” and 256 – “terrorism propaganda or public calls to committing an act of terrorism.” In the case of several of the people interviewed for this report, the UN Working Group on Arbitrary Detention in October 2021 issued a decision finding that their detention was illegal and recommending their immediate release.<sup>19</sup>

According to data provided by the Foreign Affairs Ministry, of the 1,433 people on the Financing Terrorism List as of March 31, 2024, 141 individuals were convicted under article 405; 205 individuals were convicted under article 174; and 317 individuals were convicted under article 256 of Kazakhstan’s Criminal Code.<sup>20</sup> That represents nearly half of the individuals on the Financing Terrorism List as of March 31, 2024.

The Financial Action Task Force (FATF), the global terrorism financing and money laundering watchdog, says “countries should implement targeted financial sanctions regimes to comply with United Nations Security Council resolutions relating to the prevention and suppression of terrorism and terrorist financing.”<sup>21</sup> FATF is a body made up of 40 UN member states that advances its work through a set of 40 recommendations

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<sup>18</sup> Human Rights Watch interview with Darkhan Valiev, Almaty, March 1, 2024.

<sup>19</sup> UN Human Rights Council, “Opinions adopted by the Working Group on Arbitrary Detention at its ninety-first session, 6–10 September 2021,” Opinion N°33/2021 concerning Azamat Umbetaliyev, Beket Mynbasov, Samat Adilov, Zhuldyzbek Taurbekov, Zhasulan Iskakov, Nazim Abdrakhmanov, Ernar Samatov and Bolatbek Nurgaliyev (Kazakhstan), October 14, 2021, A/HRC/WGAD/2021/33, [https://www.ohchr.org/sites/default/files/2021-11/A\\_HRC\\_WGAD\\_2021\\_33\\_AdvanceEditedVersion.pdf](https://www.ohchr.org/sites/default/files/2021-11/A_HRC_WGAD_2021_33_AdvanceEditedVersion.pdf) (accessed April 9, 2024).

<sup>20</sup> Foreign Affairs Ministry letter to Human Rights Watch, June 3, 2024.

<sup>21</sup> See The FATF, *FATF Recommendations*, as amended November 2023, <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Fatf-recommendations.html> and Global NPO Coalition on FATF website, “FATF Explained,” <https://fatfplatform.org/context/fatf-explained/> (accessed April 10, 2024).

comprising an international standard. Kazakhstan is a member of the Eurasian Group, a FATF-style regional body, which became an associate member of the FATF in June 2010.

Notably, none of FATF's 40 recommendations – meant to guide national authorities' implementation of efforts to prevent and suppress terrorism and terrorist financing through “legal, regulatory and operational measures” – includes mention of “extremism” or extremism-related crimes.<sup>22</sup>

However FATF recommendations in the past have facilitated government misuse of measures nominally introduced to comply with obligations to prevent and suppress terrorism and terrorist financing, to clamp down on civil society and its ability to function.<sup>23</sup> This has long been raised with FATF by various actors including United Nations experts, and while revision of some of the more problematic recommendations has taken place government misuse of anti-terrorism and anti-money laundering provisions to silence critics continues.<sup>24</sup>

The crime of “extremism” in Kazakhstan legislation violates the principle of legal certainty, which is integral to the rule of law and human rights norms, and requires criminal offences be defined with sufficient precision and clarity so that people can foresee what exact behaviors are prohibited. Several offenses currently qualified as “extremist” in Kazakhstan law are so vague and broad as to criminalize actions or speech protected under international human rights law.

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<sup>22</sup> FATF, *Recommendation 6*, “Targeted financial sanctions related to terrorism and terrorist financing,” updated November 2023, <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf> (accessed May 27, 2024).

<sup>23</sup> See for example, UN Human Rights Council, Report[s] of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ní Aoláin, Fionnuala, visit[s] to Kazakhstan, UN Doc. A/74/335, August 29, 2019, UN Doc. A/HRC/40/52, March 1, 2019, and UN Doc. A/70/371, September 18, 2015. And acknowledgement by FATF of the problem in FATF, High-Level Synopsis of the Stocktake of the Unintended Consequences of the FATF Standards (2021), <https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Unintended-Consequences.pdf>.

<sup>24</sup> *Ibid.* and, for critique by civil society, see the Global NPO Coalition on FATF website, “Does this sound familiar to you as a Non-Profit Organization (NPO)?”, <https://fatfplatform.org>, with resources including Ben Hayes, “Counter-terrorism, 'Policy Laundering' & the FATF,” Transnational Institute/Statewatch, March 2012. For examples of on-going abuse see “Adverse Impact Of Counter Terrorism Laws on Human Rights Defenders and FATF Compliance In India,” American Bar Association, Center for Human Rights, October 2023.

## Lack of Information about the List

Kazakhstan’s 2009 money laundering law lays out how an individual is identified for inclusion on the Financing Terrorism List and the financial sanctions which follow from inclusion on the list. Article 12 stipulates that an “authorized body” compiles a list of organizations and individuals associated with financing terrorism and/or extremism, publishes the list on its website, and sends it to relevant government bodies in electronic form.<sup>25</sup> The “authorized body” is the Financial Monitoring Agency, a government body leading Kazakhstan’s efforts to combat “the legalization of proceeds from crime and the financing of terrorism.”<sup>26</sup> The agency reports directly to the president.<sup>27</sup> The list includes the full names of individuals, their date of birth and personal identification numbers, as well as the names of organizations.<sup>28</sup>

Although article 12 of the 2009 money laundering law also provides the basis for including those convicted of non-violent extremism offences on the list, inclusion on the list is not actually part of the sanction or sentence handed down by the court at time of conviction.

Several people expressed frustration that the verdicts in their respective criminal cases did not indicate they would be subject to financial restrictions. “Even at court, they said nothing about this,” Aigul Utepova, a journalist from Astana prosecuted on “extremist” charges in 2021, told Human Rights Watch. “I asked at trial, and they said that everything would be written in the verdict. But there is nothing.”<sup>29</sup> Darkhan Valiev, the activist prosecuted twice in recent years and still on the Financing Terrorism List, said, “There is nothing about these restrictions in the verdict. And [the authorities] don’t explain either.”<sup>30</sup>

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<sup>25</sup> Law of the Republic of Kazakhstan “On combating the legalization (laundering) of proceeds from crime and the financing of terrorism” of August 28, 2009, art 12., subsection 1, [https://online.zakon.kz/Document/?doc\\_id=30466908&pos=670;0#pos=670;0](https://online.zakon.kz/Document/?doc_id=30466908&pos=670;0#pos=670;0) or [https://adilet.zan.kz/eng/docs/Z090000191\\_](https://adilet.zan.kz/eng/docs/Z090000191_).

<sup>26</sup> Foreign Affairs Ministry letter to Human Rights Watch, June 3, 2024. Kazakhstan’s Agency for Financial Monitoring can be accessed here: <https://www.gov.kz/memleket/entities/afm/about?lang=ru>.

<sup>27</sup> “Kazakhstan establishes a financial monitoring agency” (“В Казахстане создано Агентство по финансовому мониторингу”), The Eurasian Group on combating money laundering and financing of terrorism (EAG) news release, January 28, 2021 <https://eurasiangroup.org/ru/kazakhstan-establishes-financial-monitoring-agency> (accessed April 24, 2024).

<sup>28</sup> The list is available at Financial Monitoring Agency website, [https://websfm.kz/terrorism\\_old/1](https://websfm.kz/terrorism_old/1) (accessed June 15, 2024). Copy of the list, as of June 2024, on file with Human Rights Watch.

<sup>29</sup> Human Rights Watch interview with Aigul Utepova, Astana, February 26, 2024.

<sup>30</sup> Human Rights Watch interview with Darkhan Valiev, Almaty, March 1, 2024.

The majority of people interviewed for this report described the financial restrictions they face in terms of their personal IDs being blocked. While Kazakhstan’s 2009 money laundering law does not specify the way banks and other entities are required to block financial transactions by people on the Financing Terrorism List, it appears the Kazakhstan government flags their personal identification numbers (IINs) in centralized electronic systems to which all citizen services in Kazakhstan are tied. Kazakhstan’s Foreign Affairs Ministry confirmed that authorities apply “freezing measures...to a person included in the List on the basis of his identity data.”<sup>31</sup>

Yevgeniy Zhovtis, director of the human rights organization Kazakhstan International Bureau of Human Rights and Rule of Law, explained to Human Rights Watch: “In any institution that provides public services or services using public funds, everything is reflected and recorded through one’s personal identification number. Because their ID numbers are blocked, they’re blocked in all systems.”<sup>32</sup>

Sixteen of the 18 people interviewed by Human Rights Watch for this report did not know precisely how long they or their loved one would remain on the list, the extent of the restrictions to which they or their loved one are subjected, or how and when they or their loved one would be removed from the list. Kazakhstan authorities had not provided them with this information. The remaining two are no longer subject to financial restrictions.<sup>33</sup>

With the exception of one person whom the authorities proactively informed was on the list, all others found out their finances would be or had been blocked from others who had been earlier prosecuted on the same criminal charges and who similarly had their finances blocked or found out when they tried unsuccessfully to carry out a financial transaction, such as using a bank card.<sup>34</sup>

In its correspondence with Human Rights Watch, the Foreign Affairs Ministry did not specify which government agency is responsible for informing individuals they have been

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<sup>31</sup> Foreign Affairs Ministry letter to Human Rights Watch, June 3, 2024.

<sup>32</sup> Human Rights Watch electronic communication with Yevgeniy Zhovtis, April 28, 2024.

<sup>33</sup> In March 2024, one of the sixteen people noted above learned that his appeal to be removed from the list was successful.

<sup>34</sup> Only one person, Erkin Sabanshiev, said that authorities had informed him that he was included on the list. A local police officer came to his home and gave him papers explaining what the list is and on what basis a person can have his or her name removed from the list.

added to the list. However, it did clarify that an individual who has served his sentence, but whose criminal record has not expired, can request to be excluded from the list by applying to “the law enforcement or special state body (*Prosecutor General's Office, NSC, Ministry of Internal Affairs*) that conducted the criminal investigation [in the individual's case].”<sup>35</sup> One of the people interviewed for this report had successfully petitioned the authorities to be removed from the Financing Terrorism List by the time of publication.<sup>36</sup>

Several people told Human Rights Watch that they sought more information from the AFM after learning their access to various accounts had been blocked, or after they realized they could no longer use their bank cards, to no avail.

Abay Begimbetov, an activist who was sentenced in October 2021 to five years in prison for membership in the banned opposition group Koshe Party, told Human Rights Watch that after his release, he and several others who faced financial restrictions went in person to the Financial Monitoring Agency office in Almaty, but were turned away. “We went directly there, as soon as these problems started after we were released. But they didn't give a clear answer. They said go check at court, go to the police station, even though the block didn't come from them.”<sup>37</sup>

Abaibek Sultanov, an activist who in May 2021 was similarly convicted for membership in the banned Koshe Party, told Human Rights Watch that when he went to the local office of the Financial Monitoring Agency, they directed him elsewhere. “The AFM sent me to court; the court sent me to the bailiff; the bailiff said we don't know anything, then I went to the prosecutor. ...The district prosecutor replied that he doesn't know what the list is supposedly.”<sup>38</sup>

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<sup>35</sup> Foreign Affairs Ministry letter to Human Rights Watch, June 3, 2024.

<sup>36</sup> Human Rights Watch electronic exchange with Angelika Belyaeva, May 20, 2024.

<sup>37</sup> Human Rights Watch interview with Abay Begimbetov, Almaty, February 29, 2024. See also: Asutai, Manshuk and Sanat Nurbek, “Those convicted on “extremist” charges do not agree with the ban on access to financial services” [“Осуждённые по «экстремистским» статьям не согласны с запретом на доступ к финансовым услугам учреждению”], Radio Azattyk, July 29, 2022, <https://rus.azattyq.org/a/kazakhstan-osuzhdyonnye-obviniyuu-ekstremizme-govorjat-nedostupnost-finuslug/31965262.html> (accessed April 30, 2024).

<sup>38</sup> Human Rights Watch interview with Abaibek Sultanov, Almaty, March 1, 2024. Copy of written response from the Karasai District Prosecutor's Office to Mr. Sultanov on file with Human Rights Watch.

The lack of information provided to individuals about being placed on the list, and what that means in terms of financial restrictions, including lack of information about the duration and extent of the restrictions and how they are lifted, puts an unnecessary and unjustified burden on those individuals, and casts doubt on the legality of the process.

When inclusion on the list is the consequence of a criminal conviction this element of the sanction should also be set out in the verdict. Authorities responsible for imposing and monitoring the restrictions should also promptly provide any individual placed on the list with all the necessary information about why they have been placed on the list, the type and scope of restrictions they face, for how long exactly they will be subject to restrictions, and how they can appeal to be removed.

Human Rights Watch asked the Foreign Affairs Ministry to clarify if there is any judicial oversight with respect to an individual being placed on the list, removed from the list, or monitoring of their compliance with the financial restrictions. The ministry did not directly answer the question, but instead quoted from article 12, subsection 5 of the 2009 money laundering law, which specifies the grounds that a person can be excluded from the list.<sup>39</sup>

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<sup>39</sup> Foreign Affairs Ministry letter to Human Rights Watch, June 3, 2024 (Annex ii).

## Violations of Economic, Social, and Cultural Rights

The inclusion of people on Kazakhstan’s Financing Terrorism List and the financial restrictions to which they are subsequently subjected leads to violations of rights guaranteed by the International Covenant on Economic, Social, and Cultural Rights (ICESCR) to which Kazakhstan is a state party.

For example, interviewees described to Human Rights Watch the significant barriers they faced trying to secure formal employment. They also described challenges to accessing social security and other benefits. Together, these restrictions lead to people being unable to fully enjoy other economic, social, and cultural rights to which they are entitled including, but not limited to, the right to an adequate standard of living.

### Access to Work

Interviewees described to Human Rights Watch how being on the Financing Terrorism List created practical barriers to securing formal employment, undermining their right to work and limiting their ability to secure an income in order to provide for themselves and their families.

When asked if he had been able to find work since his release, Bolatbek Nurgaliev, a man prosecuted on religious extremism and propaganda of terrorism charges in 2018, told Human Rights Watch: “With my criminal record, with my IIN [personal identification number] blocked, no one will hire me. Everyone is scared. And how would they pay me anyway?”<sup>40</sup>

Several interviewees told Human Rights Watch that they thought they could earn a living by using their car as a taxi, but were unable to do so because the restrictions meant they were unable to purchase or renew their car insurance.<sup>41</sup> “When I ran out of savings, I asked my father if I could borrow his car so that I could make some money working as a taxi [driver],”

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<sup>40</sup> Human Rights Watch interview with Bolatbek Nurgaliev, Almaty, February 28, 2024.

<sup>41</sup> Human Rights Watch interviews with Darkhan Valiev, Almaty, February 28, 2024, and Erkin Sabanshiev, Almaty, February 29, 2024.

the activist Erkin Sabanshiev told Human Rights Watch. “I went [to an insurance company] and they said it’s not allowed.”<sup>42</sup>

Azamat Umbetaliev, who was prosecuted on religious extremism charges in August 2019, tried to get car insurance so he could return to his previous job driving a transport vehicle for people who are blind, but the insurance company refused to sell it to him. Umbetaliev sued the company, but both the courts at first instance and on appeal found in favor of the insurance company.<sup>43</sup> So Umbetaliev took his complaint to the court of cassation, and on August 5, 2023, the court of cassation ruled in his favor, ordering the insurance company to issue car insurance on condition that he apply in person, not online.<sup>44</sup> Seven months later, on March 27, 2024, Umbetaliev finally succeeded in purchasing car insurance.<sup>45</sup>

Other interviewees told Human Rights Watch the only way they have been able to survive without employment is with the help of immediate relatives.

Aigul Utepova, who previously worked as a journalist in Astana, said she relied wholly on her daughter. “If I was on my own, how could I have lived without a bank account, without work? It’s just a miracle that I have a daughter and she helped and continues to help me.”<sup>46</sup> The activist Erkin Sabanshiev expressed a similar sentiment. “I’m blessed that I have parents. If not for them, I would have starved, or I would have started thieving, because really everything is blocked.”<sup>47</sup>

Gulzipa Dzhaukerova told Human Rights Watch she works intermittently at the bazaar on weekends to make some money, but does not know how she has survived the five years since her prosecution. “I’m under an economic blockade. ... I can’t open up any accounts, even virtual cards, I’m blocked. Even when friends want to help, send money virtually, they can’t. We have to meet in person [so they can give me cash].”<sup>48</sup>

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<sup>42</sup> Human Rights Watch interview with Erkin Sabanshiev, Almaty, February 29, 2024.

<sup>43</sup> Human Rights Watch interview with Angelika Belyaeva, Almaty, February 28, 2024. Copy of the appellate court decision on file with Human Rights Watch.

<sup>44</sup> Ibid.

<sup>45</sup> Human Rights Watch electronic exchange with Angelika Belyaeva, May 20, 2024.

<sup>46</sup> Human Rights Watch interview with Aigul Utepova, Astana, February 26, 2024.

<sup>47</sup> Human Rights Watch interview with Erkin Sabanshiev, Almaty, February 29, 2024.

<sup>48</sup> Human Rights Watch interview with Gulzipa Dzhaukerova, Almaty, March 1, 2024.

Article 12, subsection 8, of the 2009 money laundering law provides that, in cases when an individual on the list is employed, he or she is permitted to receive from his total pay the equivalent of one count of the minimum wage, as set that year, for himself and one count for each of his dependents.<sup>49</sup> However, the process to apply for permission to withdraw partial wages is onerous. The individual must provide their bank with a certificate from their place of work confirming employment and their total wages. If the individual is requesting additional wages to support dependents, they must also provide their dependents' identification documents, a birth certificate and/or a marriage certificate and proof of unemployment for their spouse.<sup>50</sup> Then the bank is permitted to disperse funds only with the approval of the AFM, which also determines "the procedure for paying funds to an individual in the list."<sup>51</sup>

The Kazakhstan International Bureau of Human Rights and Rule of Law, a nongovernmental organization based in Almaty, Kazakhstan's largest city, concluded in a 2018 report analyzing the Financing Terrorism List's compliance with international human rights law that "the procedure for receiving wages ... is unnecessarily complicated and unjustified."<sup>52</sup>

While Kazakhstan's establishment and implementation of the Financing Terrorism List is inspired by UN Security Council resolutions, the system Kazakhstan has put in place and in particular its use against persons who have not financed or are not credibly suspected of financing terrorism nor engaged in or advocated violence, goes well beyond what any UN Security Council resolution requires of states. In particular, the withholding of wages earned in the manner that the system does, is an unjustified interference in the

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<sup>49</sup> Law of the Republic of Kazakhstan on Financing Terrorism of August 28, 2009, art. 12, subsection 8. The minimum wage for the year 2024 was set at 85000 Tenge. See WageIndicator website, "Minimum Wage Update in Kazakhstan from 01 January 2024 – January 01, 2024," <https://wageindicator.org/salary/minimum-wage/minimum-wages-news/2024/minimum-wage-update-in-kazakhstan-from-01-january-2024-january-01-2024> (accessed May 28, 2024).

<sup>50</sup> Order of the Minister of Finance of the Republic of Kazakhstan "On approval of the Rules for the payment of funds to an individual included in the list of organizations and persons associated with the financing of terrorism and extremism to ensure their livelihoods" of December 4, 2015 №613, <https://adilet.zan.kz/rus/docs/V1500012823> (accessed July 31, 2024), para. 4. See also Kazakhstan International Bureau for Human Rights and Rule of Law, *International Standards and Legislation of the Republic of Kazakhstan Relating to Restrictions on the Rights of Persons Convicted of Terrorist and Extremist Crimes to Use Their Property, Including Monetary Funds*, (Almaty, 2018), section 4.1.5. Copy on file with Human Rights Watch.

<sup>51</sup> Law of the Republic of Kazakhstan "On combating the legalization (laundering) of proceeds from crime and the financing of terrorism," of August 28, 2009, art. 12, subsection 8, [https://online.zakon.kz/Document/?doc\\_id=30466908&pos=670;0#pos=670;0](https://online.zakon.kz/Document/?doc_id=30466908&pos=670;0#pos=670;0) (accessed July 31, 2024).

<sup>52</sup> Kazakhstan International Bureau for Human Rights and Rule of Law, *International Standards and Legislation of the Republic of Kazakhstan Relating to Restrictions on the Rights of Persons Convicted of Terrorist and Extremist Crimes to Use Their Property, Including Monetary Funds*, (Almaty, 2018), section 4.1.5. Copy on file with Human Rights Watch.

individual’s personal and family life with serious consequences for their right to enjoy their social and economic rights under human rights law.

In her report following her 2019 country visit to Kazakhstan, the United Nations special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism noted “her extreme disquiet at the hardship created for family members and dependents given the impact of inclusion [on the Financing Terrorism List] (asset freezing, prohibition of engaging in a number of commercial and notarial acts) and the breadth of this listing capacity, resulting in independently undermining the rights of women and children under the International Covenant on Economic, Social and Cultural Rights.”<sup>53</sup> She stressed that “Security Council resolutions on counter-terrorism, including those relating to sanctions, are not a carte blanche for the denial of human rights.”<sup>54</sup>

The unjustified restrictions on the receipt of wages in full is aggravated by the fact that Kazakhstan’s minimum wage, currently equivalent to US\$190 a month, does not amount to a ‘living wage,’ an amount that would allow people to enjoy their rights to “social security, healthcare, education and an adequate standard of living, including food, water, sanitation, housing, clothing, and additional expenses such as commuting costs.”<sup>55</sup> When asked if the Kazakhstan government considers 85,000 Tenge, or US\$190 a month, sufficient to cover an individual’s basic needs, the Foreign Affairs Ministry responded only by saying “the question is incorrectly worded.”<sup>56</sup> However, recent living wage estimates for Kazakhstan, as estimated by the Wage Indicator Foundation, are 182,860 Tenge (US\$412) a month for Almaty and 178,846 Tenge (US\$403) for Astana, amounts that are over double Kazakhstan’s current minimum wage.<sup>57</sup> According to Numbeo, an online cost of living

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<sup>53</sup> Para. 20, UN Human Rights Council, Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Ní Aoláin, Fionnuala, visit to Kazakhstan, A/HRC/43/46/Add.1, January 22, 2020, <https://www.ohchr.org/en/documents/country-reports/ahrc4346add1-visit-kazakhstan-report-special-rapporteur-promotion-and> (accessed April 25, 2024).

<sup>54</sup> Ibid.

<sup>55</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 23 (2016), The right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/23, April 27, 2016, para. 18.

<sup>56</sup> Foreign Affairs Ministry response to Human Rights Watch, June 3, 2024.

<sup>57</sup> Available at Mojazarplata.kz website, “Living Wage in Kazakhstan” (“Прожиточный минимум в Казахстане”), <https://mojazarplata.kz/zarabotnaja-plata/prozhitochnyye-minimumy> (accessed July 31, 2024).

database, the monthly cost of living for a single person in Almaty is currently about US\$600/month.<sup>58</sup>

## **Interference with the Access to Social Security, Benefits, and Entitlements**

Similar to the situation for wages above, under article 12, subsection 8 of the 2009 money laundering law, in order for individuals on the list to receive “pension[s]” or “other social payments,” they have to request permission. Several people on the list described to Human Rights Watch how being on the list, and in particular the resulting blocking of personal ID numbers, serves as a barrier to receipt of social security and other benefits.

Samat Adilov told Human Rights Watch that although he was able to receive disability benefits while in state custody serving his five-and-a-half-year prison sentence on religious extremism charges, he has not had access to those funds since his release. “I have a disability because of my eye,” Adilov told Human Rights Watch, “But I can’t access my disability benefit. I went to state offices, wrote claims, but without result.”<sup>59</sup>

Darkhan Valiev, an activist who in recent years has been prosecuted twice on extremism-related charges and who spent nine months in pretrial detention, told Human Rights Watch that he is entitled to veteran payments after serving in the war in Tajikistan in the mid-1990s. He explained that he can withdraw his monthly veteran benefit because of a special banking account he opened for such purposes prior to his conviction, but that he is unable to access an additional annual benefit issued every year on Army Day in May: “I go to the post office, give them my identification number, they open up their system, see the account, see the money, but they can’t release it. ... Since I was released [from pretrial detention], [this money] is stuck in the post office. They can’t access it for me.”<sup>60</sup>

Akmaral Kerimbaeva, who was sentenced to one-year restricted freedom in October 2019 for alleged membership in the opposition group DVK, told Human Rights Watch she was barred from accessing alimony payments after her conviction. “I went to Narodniy Bank, because that’s where I retrieve alimony payments, but they told me they couldn’t release

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<sup>58</sup> Available at Numbeo website, “Cost of Living in Almaty,” <https://www.numbeo.com/cost-of-living/in/Almaty> (accessed July 31, 2024).

<sup>59</sup> Human Rights Watch interview with Samat Adilov, Almaty, February 28, 2024.

<sup>60</sup> Human Rights Watch interview with Darkhan Valiev, Almaty, March 1, 2024.

the funds. They said they couldn't tell me the reason either. ...Later I got a reference letter [spravka] saying that it was because I am on the [Financing Terrorism] List.”<sup>61</sup> Kerimbaeva told Human Rights Watch she sued the bank but was unsuccessful in restoring her access to the alimony payment at that time.<sup>62</sup>

Radio Azattyk, the Kazakh branch of Radio Free Europe/Radio Liberty, has published several articles about the challenges people face due to their inclusion on the Financing Terrorism List, including with respect to accessing financial supports and benefits. In January 2018, Radio Azattyk reported that Olesya Khalabuzar, who was convicted on “inciting discord” charges, could no longer access alimony payments to support her children because her bank accounts were blocked after she was included on the list.<sup>63</sup> In November 2018, the journalist Saniya Toiken reported that an Aktau resident who was imprisoned on terrorism-related charges, after her release, could not apply for maternity benefits because of the restrictions.<sup>64</sup>

Two interviewees told Human Rights Watch that they were able to access social payments, but that it was a hassle to do so each month. Serik Shakhin, who has been tried twice in recent years under article 405 of the criminal code for alleged membership in a banned extremist group, told Human Rights Watch that he cannot freely access his pension because his bank accounts are blocked. “In the end, I opened an account at the post office...but it's normally blocked, so [each month] I must write a [request to withdraw funds] and they send it off to the head office to approve it. It might take them two hours, or I have to come back the next day. After that they give permission for me to withdraw my pension.”<sup>65</sup>

## Arbitrary Limits on Lawful Financial Transactions

In addition to the restrictions described above, Kazakhstan's 2009 money laundering law bars persons on the Financing Terrorism List from buying or selling property, using a

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<sup>61</sup> Human Rights Watch remote interview with Akmaral Kerimbaeva, April 26, 2024.

<sup>62</sup> Ibid.

<sup>63</sup> Gulshkova, Svetlana, “Inclusion on the ‘Terrorist List’ Deprives You of Food and Social Services” [“Включенные в «список террористов» лишаются алиментов и социальных услуг”], Radio Azattyk, January 4, 2018, <https://rus.azattyq.org/a/kazakhstan-spisok-extremism/28946008.html> (accessed April 25, 2024).

<sup>64</sup> Toiken, Saniya, “‘That’s it, no access’: What Awaits Those Convicted on Terrorism Charges” [“Всё, доступа нет»: что ждет осуждённых по обвинению в терроризме”], Radio Azattyk, November 9, 2018, <https://rus.azattyq.org/a/kazakhstan-ogranichenia-obvinennye-v-terrorizme-ekstremizme/29590928.html> (accessed April 25, 2024).

<sup>65</sup> Human Rights Watch interview with Serik Shakhin, Astana, February 26, 2024.

notary, exchanging money, and carrying out certain financial transactions at the post office. Such restrictions—on lawful financial transactions, not tied to the financing or commission of terrorism—are arbitrary. In its correspondence with Human Rights Watch, the Foreign Affairs Ministry did not explain the grounds on which persons on the Financing Terrorism List are prevented from making lawful financial transactions, except to quote provisions directly from the money laundering law.<sup>66</sup>

All of the people interviewed by Human Rights Watch for this report described how these various restrictions interfered with their ability to conduct legal affairs or provide for themselves and their families.

Samat Adilov, who was tried on religious extremism charges in 2018, has a house in Kostanai, a town in northern Kazakhstan, registered in his name. He told Human Rights Watch that he wanted to transfer ownership of the house to his nephew and his wife, who live in Kostanai, but was barred from doing so. “I can’t use the notary. I can’t write a power-of-attorney. I can’t buy anything. I can’t sell anything,” he explained.<sup>67</sup>

Serik Shakhin, an activist who has been twice prosecuted for membership in a banned “extremist” organization in recent years, is similarly stuck with property he and his wife would like to sell. “My spouse doesn’t have the right to sell anything [we co-own] without my permission, but I can’t give it to her because it’s prohibited [for me],” Shakhin said.<sup>68</sup>

Abaibek Sultanov told Human Rights Watch that his family was looking to dispose of their property outside Almaty, but that his family could not finish the registration process, a necessary prerequisite, because of the financial restrictions he is under. “We went to the public service center (TsON) to register the house,” Sultanov told Human Rights Watch. “But they gave us a notice that we are not permitted because someone [in the family] is ‘financing extremism.’”<sup>69</sup> A court in Kazakhstan convicted Sultanov on charges of membership in a banned extremist organization (art. 405) in response to his peaceful opposition activities, not for financing or committing terrorism.

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<sup>66</sup> Foreign Affairs Ministry letter to Human Rights Watch, June 3, 2024.

<sup>67</sup> Human Rights Watch interview with Samat Adilov, Almaty, February 28, 2024.

<sup>68</sup> Human Rights Watch interview with Serik Shakhin, Astana, February 26, 2024.

<sup>69</sup> Human Rights Watch interview with Abaibek Sultanov, Almaty, March 1, 2024. Copy of the certificate on file with Human Rights Watch.

People on the list are also barred from exchanging money, even in small amounts. “I went to an exchange office – I wanted to exchange 100 dollars,” Dametkan Aspandiyarova, a civic activist in Almaty who was sentenced to two years’ restricted freedom in October 2021, told Human Rights Watch: “They asked for my ID, and then they told me no, you’re not allowed. You’re on a red list, they said.”<sup>70</sup>

The Atyrau-based activist, Maks Bokaev, who was wrongfully sentenced to five years in prison on charges of “inciting social discord” after participating in protests against proposed amendments to the Land Code in 2016, told Human Rights Watch that he tried to buy a life insurance policy after his release from prison in 2021, but insurance companies refused to sell him one.<sup>71</sup> He also described how he was barred from paying his bus fare through his mobile phone, because of the financial restrictions in place following his conviction. “At first I thought there was something wrong with the account, but it happened again, so I went in [to ask],” Bokaev explained.<sup>72</sup> The mobile phone company confirmed in an email to Bokaev that “mobile financial services are indeed blocked on your number.”<sup>73</sup>

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<sup>70</sup> Human Rights Watch interview with Dametkan Aspandiyarova, Almaty, March 1, 2024.

<sup>71</sup> Human Rights Watch remote interview with Maks Bokaev, April 25, 2024.

<sup>72</sup> Ibid.

<sup>73</sup> Copy of mobile phone company email exchange with Maks Bokaev on file with Human Rights Watch.

## Lack of Legal Remedy

Despite the multiple ways in which placing people who have been prosecuted for non-violent “extremist” offenses on the Financing Terrorism List leads to violations of internationally protected human rights, courts in Kazakhstan have mostly declined to consider complaints brought before them or ruled against the complainants.

In 2018, Vladimir Kozlov, Ablaihan Chalimbaev, Serik Borambaev, and Turarbek Kusainov, opposition figures who had been tried on extremism- or terrorism-related criminal charges between 2010 and 2014, filed a complaint against Kazakhstan’s ministries of finance, justice, foreign affairs, and internal affairs, the Prosecutor General's Office, and the National Security Committee, before the Yesilskiy District Court challenging the legality of the provisions allowing for inclusion of their names on the Financing Terrorism List.

They argued that although they were convicted of crimes that the Criminal Code of the Republic of Kazakhstan classifies as “terrorist” and “extremist,” their convictions “did not directly establish their involvement in the financing of terrorist and extremist activities” and requested their names be removed from the list.<sup>74</sup>

The Yesilskiy District Court in Astana issued a decision on June 3, 2018, refusing to consider the complaint on jurisdictional grounds, saying that it was not a matter subject to civil proceedings. The men’s lawyer, Inara Masanova, told Human Rights Watch that the court should have indicated in its ruling what alternative legal avenue or avenues – under criminal or administrative procedures, for example - was open to the men for consideration of their complaint, but that the court did not specify this in its ruling.<sup>75</sup> The group appealed, but the court’s decision was upheld, including by the Supreme Court of Kazakhstan without, at any stage, the courts explaining what legal route was open to the men to challenge the legality of their inclusion on the list.<sup>76</sup>

Burkutbay Nasyrkhanov, a former miner and activist from Satpaev, a town in central Kazakhstan, was prosecuted in June 2021 on charges of membership in a banned extremist

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<sup>74</sup> Copies of court rulings on file with Human Rights Watch.

<sup>75</sup> Human Rights Watch remote electronic exchange with Inara Masanova, April 10, 2024.

<sup>76</sup> Ibid.

organization and sentenced to one and a half years of restricted freedom and a three-year ban on participating in civic or political activities.<sup>77</sup> Following his conviction, he was automatically added to the list of people and organizations associated with financing terrorism and extremism, and his finances were blocked.

In response, he sued the Narodniy Bank of Kazakhstan, asking the court to find the bank's restrictions on his accounts illegal and cancel them. He argued that he was “not charged with financing terrorism or extremism [and] believes that the provisions of article 12 of the [2009 money laundering law], which impose restrictions on persons included in the List, contradict Kazakhstan's international obligations.”<sup>78</sup>

At the time, Nasyrkhanov told Radio Azattyk, the Kazakhstan branch of Radio Free Liberty/Radio Europe: “My accounts have been blocked, I cannot receive the money I earn, which is accrued by the employer minus all taxes. Why should I limit myself if I earned this money legally? [These] sanctions are imposed on me that were not specified by the court.”<sup>79</sup>

On December 15, 2022, the Zhezkazgan City Court denied Nasyrkhanov's claim. The court also declined Nasyrkhanov's and his lawyer's motion to request an opinion from the Constitutional Court concerning whether articles 12 and 13 of the 2009 money laundering law comply with Kazakhstan's constitution, because the court “did not see any contradictions or infringements on the rights and freedoms enshrined in the Constitution of the Republic of Kazakhstan.”<sup>80</sup> In February 2023, the court's decision was upheld on appeal.

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<sup>77</sup> Weber, Elena, “Former miner and activist from Karaganda region sentenced to restricted freedom” [“Бывший шахтер и активист из Карагандинской области приговорен к ограничению свободы”], Radio Azattyk, July 21, 2021, <https://rus.azattyq.org/a/31370198.html> (accessed April 4, 2024).

<sup>78</sup> Copy of the court decision on file with Human Rights Watch.

<sup>79</sup> Weber, Elena, “I wrote a post and received a sentence and blocked accounts. ‘Fighting extremism,’ the Kazakhstan way” [“Написал пост — получил приговор и заблокированные счета. «Борьба с экстремизмом» по-казахстански”], Radio Azattyk, December 5, 2022, <https://rus.azattyq.org/a/kazakhstan-list-of-persons-associated-with-the-financing-of-extremism-and-terrorism/32160375.html> (accessed April 4, 2024).

<sup>80</sup> Copy of the court decision on file with Human Rights Watch.

## Kazakhstan's International Obligations

Governments have the obligation to ensure that all counterterrorism measures respect human rights. The UN Global Counterterrorism Strategy, repeatedly reaffirmed by the United Nations General Assembly since 2006, says that member states must make human rights and the rule of law a pillar of their counterterrorism strategies.<sup>81</sup> States must also avoid stifling the rights to freedom of expression, association, peaceful assembly, and freedom of religion or belief in the name of security. Such measures are not only unlawful under international law, they are also counter-productive.

Kazakhstan is party to the International Covenant on Civil and Political Rights (ICCPR).<sup>82</sup> The vaguely worded criminal law provisions on extremism contravene the principle of legal certainty, integral to human rights norms, which requires that all criminal offences be defined precisely and in an accessible, foreseeable manner. Prosecuting members of non-violent political opposition groups and other individuals who have not engaged in criminal behavior, for their peaceful expressions of opinions that are opposed to the government or for discussions of their religious or political beliefs, violates the rights to freedom of religion, expression, and association, which are guaranteed under the ICCPR in articles 18, 19, and 22, respectively. It may also constitute misuse of the criminal justice system for political purposes.

Placing this category of people on the Financing Terrorism List on dubious legal grounds, and in a manner that is arbitrary and has serious consequences for their well-being and that of their family, also violates their rights to be protected from arbitrary interference with their personal and family lives, and from unlawful attacks on their reputations, under article 17 of the ICCPR.

As noted above, Kazakhstan is also party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR).<sup>83</sup>

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<sup>81</sup> For more information on the Strategy, see UN Office of Counter-Terrorism website, "United Nations Global Counter-Terrorism Strategy, <https://www.un.org/counterterrorism/un-global-counter-terrorism-strategy> (accessed July 31, 2024).

<sup>82</sup> International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly on December 16, 1966, ratified by Kazakhstan in 2006.

<sup>83</sup> International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted by the United Nations General Assembly on December 16, 1966, ratified by Kazakhstan in 2006.

Article 6 of the ICESCR protects the right of everyone to work, “which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts.” Article 7 guarantees “the enjoyment of just and favorable conditions of work” and “fair wages and equal remuneration for work of equal value without distinction of any kind.” Article 9 protects the right to social security, which as the UN Committee on Economic, Social and Cultural Rights has explained, “encompasses the right to access and maintain benefits, whether in cash or in kind, without discrimination in order to secure protection, inter alia, from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents.”<sup>84</sup> Article 11 requires states to ensure the right of everyone to “an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

The sanction of being placed on the Financing Terrorism List results in far reaching interferences with all of these rights. Given the dubious legality of the basis on which individuals are placed on the list and the lack of due process guarantees, including access to a remedy for those on the list, the sanction, at the very least, as it is imposed on those not convicted of violent offences or financing terrorism, violates the ICESCR.

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<sup>84</sup> The Committee on Economic, Social and Cultural Rights, General Comment No. 19, The right to social security (art.9), UN. Doc. E/C.12/GC/19, February 4, 2008, para. 2.

## Acknowledgements

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# Politically Targeted, Economically Isolated

## How Kazakhstan’s Financing Terrorism List Compounds Human Rights Harms

Authorities in Kazakhstan regularly bring criminal charges against peaceful opposition activists and others based on abusive, overly broad extremism-related laws. These prosecutions often violate international human rights law, as documented in the past by Human Rights Watch and others. Kazakhstan goes further by placing far reaching, arbitrary financial restrictions on those found guilty of “extremism,” in addition to a custodial sentence. These restrictions, which can limit access to bank accounts, job opportunities, social security payments, and other state benefits, are the subject of this report.

*Politically Targeted, Economically Isolated*—based on interviews with victims and a review of official and secondary sources—documents the harms stemming from extremism-related prosecutions, including their impact on people’s daily lives. Kazakhstan places individuals who have been convicted on overbroad “extremist” and “terrorism” charges on a “Financing Terrorism List” compiled by the Financial Monitoring Agency, a government body, whether or not the individual was involved in, advocated for, or financed violence. There are currently over 1,400 people on the list. This practice causes hardship and stigma and breaches human rights protections, including the rights to an adequate standard of living and access to work and social security.

Kazakhstan should exclude crimes qualified as “extremist” from automatic inclusion on the Financing Terrorism List, and immediately lift financial restrictions on anyone currently on the list who was convicted of non-violent “extremist” or “terrorism” crimes. Kazakhstan’s international partners should urge the government to end its crackdown on government critics and others on overbroad extremism-related charges and ensure that legislation



Protesters hold placards during an opposition rally in Almaty, Kazakhstan on February 28, 2021.  
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