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No Country for Human Rights

Comparative Analysis of Anti-Extremist Legislation
and its Implementation in Eastern Europe and Central Asia

2023



The report has been prepared by members of the Working Group of Civic Solidarity Platform on Counter-Terrorism, Anti-Extremism and Human Rights.



ARTICLE 19

ARTICLE 19

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About the Working Group

Members of the Civic Solidarity Platform (CSP) are cognizant of a significant threat posed by terrorism to peace, security and stability in the OSCE region, as well as to the realization of human rights and to social and economic development.

Protecting human rights is often seen as a task incompatible with protecting national security, but in reality, upholding human rights is necessary for sustainable security. Nevertheless, authorities throughout the OSCE region increasingly introduce anti-terrorism measures that violate human rights. Such policies can be extremely counterproductive.

The same applies to anti-extremist policies intended to prevent conflict and ensure tolerance and security, which instead often provoke confrontation and a sense of injustice when they violate fundamental rights such as freedom of speech, freedom of assembly, or freedom of conscience.

Members of the CSP strive to play a constructive role in the design and implementation of effective anti-terrorism and anti-extremist strategies that respect and promote human rights.

Tasks of the Working Group:

- a) monitoring the human rights impact of counter-terrorism and anti-extremism initiatives across the OSCE region and raising the alarm when human rights threats emerge;
- b) facilitating the exchange of experience and expertise between CSP members with respect to the human rights impact of counter-terrorism and anti-extremism initiatives;
- c) advocating to ensure human rights standards are respected and promoted within policies and initiatives to counter terrorism and violent extremism.

The Working Group was officially launched in January 2018 and is currently coordinated by ARTICLE 19 and SOVA Center.

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Executive summary

The Working Group of the Civic Solidarity Platform on Counter-Terrorism, Anti-Extremism, and Human Rights and ARTICLE 19 jointly submit a new report on legislation and enforcement in this field in Belarus, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, and the Transnistrian (Pridnestrovie) region of Moldova (hereinafter referred to as Transnistria).

The years from 2020 to 2023 marked a crisis period for Eastern Europe and Central Asia. These years were characterized by several significant events, including the Covid-19 pandemic and the government measures implemented to address it, as well as the public's reactions of the population to these restrictions; protests and their subsequent suppression in Belarus; clashes in the Korday district and the suppression of mass protests in Kazakhstan; the Taliban coming to power in Afghanistan; conflicts along the Kyrgyzstan-Tajikistan border; protests followed by a military operation in the Gorno-Badakhshan region of Tajikistan; the suppression of protests in the Republic of Karakalpakstan in Uzbekistan; Russia's military aggression against Ukraine, and the persecution of those involved in anti-war protests. These events collectively contributed to heightened tensions in the region, accompanied by an increase in authoritarian tendencies.

The report is organized into chapters that delve into the unique aspects of each country's anti-extremism policies. It assesses national laws and their enforcement in the context of international legal standards, compares these aspects across different countries, and takes into account the specific developments in each country.

Across the region, measures aimed at countering extremism and terrorism have not only addressed tangible and existing threats but have also served as tools for societal control and the suppression of civic engagement that does not infringe upon constitutional rights. In certain countries, notably Belarus and Russia, this legal enforcement has sharply intensified. Some major problematic trends include the excessive and sometimes unjustified prosecution of individuals under the charges of incitement to violence, the criminalization of peaceful criticism of authorities or their "discreditation," sanctions for the distribution of unjustifiably prohibited materials or symbols, severe penalties for mere formal affiliation with organizations designated as extremist or terrorist, and the extensive practice of blocking internet pages and resources.

The report offers a number of key recommendations, including:

- National laws and practices aimed at countering terrorism and extremism should be brought in compliance with international human rights standards;

- The definition of extremism, along with terrorism, should be restricted to a set of actions that are inherently connected to the use of violence;
- Other types of offenses, such as war crimes, violations of laws on protests, personal insults, petty hooliganism, and so forth, should not be classified as extremist or terrorist crimes;
- Countries should refrain from criminalizing unethical, unpopular, or oppositional speech on public matters and adhere to the criteria for criminalizing public speech as outlined by international experts and endorsed by the United Nations;
- Countries should abandon the practice of creating lists of “prohibited materials” and should base internet content blocking solely on judicial decisions;
- The grounds for banning public associations as extremist and for prosecuting their members should be narrowed down;
- Countries should avoid imposing disproportionate punishments, refrain from the use of illegal investigative methods, and eliminate excessive or non-individualized additional penalties and restrictions;
- Countries should, as they revise their legislation, release individuals who were previously subjected to unfair or excessive punishment.

Introduction

In early 2020, the Working Group of the Civic Solidarity Platform on Counter-Terrorism, Anti-Extremism, and Human Rights presented a report aimed at shedding light on the challenges associated with anti-extremist policies in Russia, Kazakhstan, Kyrgyzstan, and Tajikistan.¹ Our approach was based on the understanding that while this legislation originated in Russia, it was not simply copied but also adapted uniquely in each of these countries. Hence, conducting a comprehensive review and comparative analysis was deemed highly relevant.

Since then, anti-extremist policies have undergone significant developments in all these countries and beyond. As a result, the Working Group has determined the necessity for a new comparative publication on this matter.

This time, we have expanded the geographical scope of our review to include Belarus, where significant changes were made to anti-extremist legislation after 2020, effectively making it a primary repressive tool; Uzbekistan, which introduced a new extremism law in 2018, with its enforcement intensified ahead of the president's re-election for a second term.

As a special case study, this report also examines the situation in the region of Transnistria, which is part of Moldova. However, the authorities in Transnistria exercise de facto control over the territory of the region and have established a legislative and law enforcement system that is not controlled by the central government in Chisinau. Compared to the de facto legislation applied in Transnistria, Moldovan legislation does not raise the same level of concern in terms of legislation and judicial practice related to countering "extremism." Therefore, this report specifically examines the situation in Transnistria, where anti-extremism legislation emerged in the 2000s and has been significantly expanded in the last three years with its enforcement peaking in 2020. The inclusion of Transnistria in this report in no way implies that the authors question the territorial integrity of Moldova.

In the sections dedicated to Belarus, Uzbekistan, and Transnistria, we provide an overview of the situations in these regions. In the sections covering Russia, Kazakhstan, Kyrgyzstan, and Tajikistan, we present a comparative analysis in relation to the information provided in the previous report mentioned above.

The years from 2020 to 2023 marked a crisis period for many countries in Eastern Europe and Central Asia. These years were characterized by the Covid-19 pandemic,

¹ SOVA Center, Anti-Extremist Policies in Russia, Kazakhstan, the Kyrgyz Republic and Tajikistan: Comparative Review, Moscow 2020 (<https://www.sova-center.ru/files/books/wg-4-2020-eng.pdf>).

the government measures implemented to address it, and the public's reactions to these restrictions; protests and their subsequent suppression in Belarus; clashes in the Korday District and the suppression of mass protests in Kazakhstan; the Taliban coming to power in Afghanistan; conflicts along the Kyrgyzstan-Tajikistan border; protests followed by a military operation in the Gorno-Badakhshan region of Tajikistan; the suppression of protests in the Republic of Karakalpakstan in Uzbekistan; Russia's military aggression against Ukraine, and sanctions against those involved in anti-war protests. These events collectively contributed to heightened tensions in the region, accompanied by an increase in authoritarian tendencies.

It is worth reminding that in the states under review, the concept of “extremism” is used very broadly – it is an umbrella term used to cover widely differing types of activity. It includes ideologically motivated violence, incitement to hatred or violence (which states are obliged to prohibit once they cross a certain line, provided that the restrictions comply with international human rights standards) as well as other activities, some of which may be legitimately restricted on the grounds of protecting national security. However, the notion of extremism is often expanded to cover types of expression that may not be restricted under international human rights standards, such as historical debate, peaceful assembly, criticism and insults against public figures and state institutions, and blasphemy. The authors of the report do not endorse this kind of use of the term “extremism” in legislation and law enforcement. The term appears in the report only in relation to practices that have developed in the region under review and are utilized by law enforcement agencies and courts.

The dynamics of anti-extremist and counter-terrorism policies have become even more diverse than they were four years ago. Following the country-specific sections and the special chapter on Transnistria, we provide a brief comparative overview of trends that are common across the region, along with recommendations for potential improvements in legislation and enforcement within this domain.

Applicable international human rights standards

The Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) guarantee the right to freedom of thought, conscience, and religion, the right to freedom of expression, and the right to freedom of peaceful assembly and association.²

These rights are not absolute. A state may, in exceptional circumstances, limit these rights subject to the condition that the limitations are:

- **Provided for by law:** any law or regulation must be formulated with sufficient precision to enable individuals to regulate their conduct accordingly;
- **In pursuit of a legitimate aim, listed exhaustively as:** respect of the rights or reputations of others; or the protection of national security or of public order (ordre public), or of public health or morals;
- **Necessary and proportionate in a democratic society,** i.e. if a less intrusive measure is capable of achieving the same purpose as a more restrictive one, the least restrictive measure must be applied.

International human rights standards recognize that terrorism and incitement to violence and hatred constitute a serious threat to human rights, democracy, peace, and social cohesion, thus obliging states to protect their citizens and others from the threat(s) of such acts. However, the efforts of states in this regard must respect the rule of law and international human rights standards. States must not misuse provisions against terrorism and incitement to criminalize the legitimate actions of opposition groups, religious associations, civil society organizations, journalists, human rights defenders, and ordinary citizens.

There is no universally agreed definition of “terrorism” and “extremism” (or “violent extremism”) under international law, although international bodies – including the UN Security Council, UN Secretariat, General Assembly, and the UN charter and treaty bodies as well as regional institutions – employ these terms routinely.³ However, these terms must be clearly and narrowly defined at the national legislative level.⁴ For instance, the UN Human Rights Committee (HRC) in its General Comment No. 34 on the ICCPR provides that “such offences as ‘encouragement of terrorism’ and ‘extremist

² See the Universal Declaration of Human Rights arts. 18–20 and the International Covenant on Civil and Political Rights, arts. 18–22.

³ See, e.g. UN Security Council Resolutions 2178, 2014 or the Resolution of the General Assembly 68/127: A world against violence and violent extremism, 2013.

⁴ See, e.g. the Joint Declaration on Freedom of Expression and Countering Violent Extremism, 4 May 2016; or Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 22 February 2016, A/HRC/31/65A/HRC/31/65, para 38.

activity’ as well as offences of ‘praising,’ ‘glorifying,’ or ‘justifying’ terrorism, should be clearly defined to ensure that they do not lead to unnecessary or disproportionate interference with freedom of expression.”⁵

The term “extremism” is particularly disputed. If the legal definition of this term does not include a reference to violence, authorities can impose restrictions on a wide range of beliefs and their public expressions under the pretext of countering extremism. International organizations have repeatedly emphasized the need for caution when defining this phenomenon. The most well-thought-out definition, which emphasizes the direct connection of this phenomenon with violence, has been adopted by the OSCE, referring to it as “violent extremism and radicalization that lead to terrorism.”⁶

Standards aimed at countering extremism and terrorism impose significant restrictions on freedom of expression. The UN Secretary-General has stressed that laws should only allow for the criminal prosecution of direct incitement to terrorism, that is, speech that directly encourages the commission of a crime, is intended to result in criminal action and is likely to result in criminal action.”⁷ International experts have emphasized a crucial aspect in a document known as the Johannesburg Principles on National Security, Freedom of Expression, and Access to Information: expression that only transmits information from or about an organization that a government has declared threatens national security must not be restricted.⁸

The scope of the right to freedom of expression is broad. The UN Human Rights Committee (HR Committee), charged with interpreting the ICCPR, has affirmed that the scope of the right extends to the expression of opinions and ideas that others may find deeply offensive.⁹ Article 20 of the ICCPR sets out a number of specific types of expression which must be prohibited under the ICCPR, namely “propaganda for war” and “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.” While states are obliged to prohibit this type of expression under the law, restrictions must still be limited to ensure broad restrictions

5 See, HR Committee, General Comment No. 34 on Article 19: Freedoms of opinion and expression, CCPR/C/ GC/34, 12 September 2011, para 11 and the Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, August 10, 2011. A model offense of incitement to terrorism was also provided in the Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 22 December 2010, A/HRC/16/51, paras 29-32.

6 Preventing Terrorism and Countering Violent Extremism and Radicalization that lead to terrorism. OSCE, 2014.

7 The protection of human rights and fundamental freedoms while countering terrorism, Report of the Secretary-General, 28 August 2008, A/63/337, para 62.

8 ARTICLE 19, The Johannesburg Principles on Freedom of Expression and National Security, 1996, London.

9 General Comment 34, op.cit., para 11.

on expression are avoided. At the international level, the Rabat Plan of Action – adopted by experts following a series of consultations convened by the UN Office of the High Commissioner for Human Rights – provides guidance on what constitutes incitement under Article 20, para 2 of the ICCPR. In particular, it sets out a six-part test to assess incitement statements requiring an assessment not only of the statement’s content but also its context, extent and magnitude of the expression, the identity of the speaker, their intent, as well as the likelihood of harm caused by the statement.¹⁰

International standards safeguard the rights of individuals, not the rights of ideas, institutions, or symbols. Therefore, they do not allow restrictions on freedom of expression aimed at protecting the state or its symbols from criticism or even insult.¹¹ The status of a head of state or a public official does not provide grounds for special protection of these individuals from manifestations of hatred. Similarly, prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are not allowed.

Nevertheless, it is regrettable to note that in a number of countries of the region, international human rights standards have only partially served as a guideline for the development of legislation related to combating extremism and terrorism. To a significant extent, these countries have drawn inspiration from Russia’s anti-extremist legislation, which has been evolving since 2002 and encompasses a comprehensive set of measures aimed at safeguarding both state and public security, addressing issues ranging from preventing coup d’états to countering xenophobia. Additionally, the approach of the Shanghai Cooperation Organization (SCO) has significantly influenced the countries in the region. The SCO has developed its Convention on Combating Extremism, imposing legal obligations on its member states.¹² This convention is rooted in the Chinese concept of “three evils” – extremism, separatism and terrorism – which are viewed as sharing a common underlying nature. This perspective aligns with the definition of extremism in Russian legislation¹³ but stands in direct contrast to the principles outlined above in the recommendations of the United Nations and the OSCE. We express hope that our report will contribute to promoting universal human rights standards in the countries under review.

¹⁰ The Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, A/ HRC/22/17/Add.4, Appendix, adopted 5 October 2012.

¹¹ See, e.g., the Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, 20 April 2010, A/HRC/14/; Johannesburg Principles, op. cit., Principle 8.

¹² The Shanghai Convention on Combating Extremism, signed in 2017 by Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, and China (https://sherloc.unodc.org/cld/uploads/res//treaties/definitions/treaty/_f_html/Convention_of_the_Shanghai_Cooperation_Organization_on_combating_Extremism.pdf).

¹³ Federal Law of July 25, 2002 N 114-FZ “On Countering Extremist Activities” (as amended) // Garant (<https://base.garant.ru/12127578/>).

Country reports

Belarus

The presidential elections in the Republic of Belarus in August 2020 emerged as the primary factor shaping the political landscape in the country over the following two years. The authorities' response to protests against the falsification of election results led to a severe human rights crisis.

Tens of thousands of individuals faced administrative detentions and arrests for participating in protest actions and expressing their opinions. Many of those detained fell victim to torture and inhumane treatment. The number of political prisoners in the country sharply increased, with human rights organizations recognizing 1480 individuals as such by October 10, 2023, despite around 1200 people previously recognized as political prisoners in the preceding two years being released. According to the statement of Prosecutor General Andrei Shved in February 2023, since the beginning of the 2020 protests, over 3,645 individuals have been convicted of extremist-related criminal offenses, with more than 60% of them receiving sentences involving imprisonment. Starting from the beginning of 2021, there have been indications of potential changes to the legal framework that could restrict the rights and freedoms of citizens, including proposed amendments to the anti-extremist legislation.

Tightening of legislation in 2021

On 14 May 2021, a law was signed, significantly altering the content of the 2007 Law "On Countering Extremism":

1. The definition of "extremism" was significantly expanded. It now includes the dissemination of "deliberately false information about the political, economic, social, military, or international situation of the Republic of Belarus, or the legal status of citizens in the Republic of Belarus, that discredits the Republic of Belarus," insulting a government official in the performance of their official duties, discrediting executive and administrative bodies, and public calls for the organization or conduct of illegal assemblies, rallies, processions, demonstrations, or picketing in violation of established procedures for their organization or conduct, all committed with the intent of "infringing on the independence, territorial integrity, sovereignty, fundamental principles of the constitutional system, or public safety."
2. The term "extremist formation" that had previously existed in the law was defined as a group of citizens involved in extremist activities, providing support

to extremist activities, or acknowledging the possibility of engaging in such activities through their actions, or financing activities recognized as extremist by decisions made by the Ministry of Internal Affairs or the State Security Committee, which can be appealed within these authorities and (or) in court. The recognition of a citizens' association as an extremist formation does not require a judicial process, and filing a complaint in court against such a decision does not automatically suspend its enforcement.

3. If previously in Belarus only specifically Nazi symbols and attributes were prohibited from public display, now the framework law has been amended to include the term "extremist symbols and attributes." It now covers items "used for the purpose of conducting extremist activities or their propaganda, including through public demonstration, and in calls for extremist activities and extremist actions, flags, hymns, and other musical works, uniform elements, swastikas, emblems, symbols, graffiti, logos, pennants, badges, and other distinctive signs or their copies, including objects that are or may be subject to copyright, related rights, industrial property rights, including Nazi symbols and attributes, as well as any images of individuals who have been convicted by a legally effective court verdict [in relation to extremist actions]." The clear objective of this amendment was to prohibit protest symbols, primarily the white-red-white flag.
4. The law now includes a provision for establishing a list of individuals convicted of "committing extremist activities" and restricting their rights. These individuals are prohibited, until their conviction is expunged or lifted, and for a period of five years thereafter, from engaging in "activities related to the distribution of narcotic drugs, psychotropic substances, their precursors, firearms and ammunition, or explosives; pedagogical activities (in terms of delivering educational programs), publishing activities, as well as holding government positions or performing military service." Additionally, their financial transactions are subject to special monitoring.

On the same day, 14 May 2021, the Law "On the Prevention of Rehabilitation of Nazism" was signed. Back in 2019, the rehabilitation of Nazism was included in the definition of extremism in the framework law; concurrently, definitions for the terms "Nazism," "Nazi symbols and attributes," and "rehabilitation of Nazism" were provided, along with the outlining of actors and measures to counteract this phenomenon. Now, the issues related to combating the rehabilitation of Nazism as a form of extremist activity have been singled out into a separate law. Along the way, the number of relevant concepts multiplied and existing definitions were significantly expanded. Among the changes are prohibitions on approving or justifying organizations and individuals who supported the Third Reich

in a very broad sense; the category of Nazi symbols and attributes has been expanded to include even portraits of individuals convicted by national, military, or occupation tribunals based on the judgments of the Nuremberg Tribunal. There are also restrictions on historical discourse. One of the fundamental “principles of preventing rehabilitation of Nazism” listed in this law is “preserving historical memory and preventing the falsification of history, including the distortion of historical facts.” All of these measures seem to be clearly aimed at creating an additional tool for exerting pressure on opposition groups and activists within the nationalist spectrum.

The amendments to the Law “On Mass Events,” which were signed on 24 May 2021, further restricted the right to hold peaceful assemblies, thereby expanding the potential for applying anti-extremist legislation to violations in this context. These violations could potentially be viewed as a type of extremist activity.

Among the new restrictions are prohibitions on various forms of financing for “reimbursement of expenses stemming from sanctions against a person for violation of the procedure for organizing or holding mass events,” as well as bans on the live coverage of “mass events conducted in violation of the established procedures of their organization or conduct for the purpose of their popularization or propaganda” in the media and information networks, including the internet. It’s important to highlight that journalists now face the same restrictions as organizers and participants of mass events.

On the same day, 24 May 2021, amendments to the Law “On Mass Media” were signed, extending from three to five years the ban on establishing new media outlets for individuals and legal entities who had previously founded media outlets subsequently terminated by court order. This restriction also applied to individuals and organizations who had previously owned resources or online publications access to which was restricted; in such instances, the ban remains in effect for a period of three years starting from the date of the decision to restrict access. Participants in organizations deemed extremist face a ban for five years.

Simultaneously, amendments to the Law “On Telecommunications” introduced an article that granted the Operational and Analytical Center under the President the authority to extrajudicially suspend or restrict the operation of public telecommunications networks and facilities “upon the discovery of information within the public telecommunications network containing calls for mass disturbances, engagement in extremist activities (prior to the entry into force of a court decision on recognizing an organization or individual entrepreneur’s activities as extremist or a decision of an authorized state body to prohibit the activities of an extremist formation), participation in mass events conducted in violation of established procedures, as well as information that poses a threat to the life and (or) health of citizens, property, a threat of group violations of public order and (or) public safety, and (or) a threat of interfering with the functioning or stopping the functioning of critical facilities.”

A number of articles in the Criminal Code of the Republic of Belarus underwent important changes following amendments introduced on 26 May 2021, and new provisions were added to the Code:

- Article 130 of the Criminal Code (deliberate actions aimed at inciting racial, national, religious, or other social enmity or discord based on racial, national, religious, linguistic, or other social affiliation) was supplemented with a note designed to clarify one of the elements of the crime: “other social affiliation in this article refers to a belonging of a person to a specific social group based on gender, age, profession, occupation, place of residence, and other social group identification.” This put an end to debates about whether citizens can be prosecuted for inciting enmity and discord towards people of certain professions, including civil servants and law enforcement officers, as representatives of specific social groups.
- The Criminal Code was amended to include Article 130-1 (Rehabilitation of Nazism). It provides for a fine, arrest or restriction of liberty for up to five years or imprisonment for the same period for intentional acts aimed at rehabilitating Nazism. For the same acts committed with violence or by an official using his official powers, the penalty is imprisonment for a period of three to ten years. Such acts are punishable by five to twelve years’ imprisonment if committed by a group of persons or through negligence, or if they have caused the death of a person or other serious consequences.
- Article 361-1 (establishment of an extremist formation or participation in it) in its revised version penalizes not only the creation of extremist groups or groups whose activities aim to rehabilitate Nazism, leadership of such groups, or their structural divisions, but also “the participation of a person in an extremist formation with the intention of committing an extremist offense (participation in an extremist formation).” According to the note to Article 364-1, an extremist offense in its text means an offense involving intentional actions classified as extremist under legislative acts or any other offense stipulated in the Criminal Code, committed on the grounds of racial, national, religious enmity or discord, political or ideological enmity, or hatred or discord against a particular social group.
- Article 361-2 (financing of extremist activities) was supplemented with a second part, which provides for punishment of imprisonment for a term of five to eight years for providing or collecting funds, securities, or other property through any means to knowingly support extremist activities or activities aimed at rehabilitating Nazism.
- The Criminal Code was expanded to include Article 361-4 (assisting extremist activities), which stipulates that recruiting, involving individuals in extremist

activities, providing training, or otherwise facilitating extremist activities can result in a restriction of liberty for up to four years or imprisonment for a period ranging from two to six years. For the same actions committed repeatedly, by a group of individuals upon a prior agreement, or by a public official using their official powers, the punishment is a restriction of liberty for two to five years or imprisonment for three to seven years.

- The Criminal Code was supplemented with Article 361-5 (participation in training or other forms of preparation for engaging in extremist activities). According to this article, undergoing training or other preparation with the clear intention of subsequently participating in extremist activities is punishable by a restriction of liberty for up to three years or imprisonment for the same duration.
- Increased sanctions were introduced for several articles: under Article 341 (defacement of structures and property damage), the maximum sanction was set as imprisonment for up to three years; under both Parts 1 and 2 of Article 342 (organizing and preparing actions that gravely violate public order or active participation in such actions), the maximum sanction was increased by a year; under Article 361 (calls to actions aimed at harming the national security of the Republic of Belarus), the maximum prison term for each of its three parts was extended by two years; the maximum prison term under Article 369-3, which pertains to public calls to organize or hold an illegal assembly, rally, street procession, demonstration or picketing, or for the involvement of others in participating in such mass events, was extended by two years; the maximum term of imprisonment under Article 370 on desecration of state symbols was increased by one year; and sanctions for defamation against the President of the Republic of Belarus under Article 367 and insulting the President under Article 368 were also increased, with maximum prison terms extended by one year and two years, respectively. The increase in sanctions for the above-mentioned articles has led to a shift in the classification of these offenses from categories of lower societal danger to more severe categories. This change will directly affect the application of relevant criminal laws and procedures. It is important to highlight that individuals involved in protest actions following the 2020 presidential elections were convicted under these specific articles.
- Article 369 (insulting of a government official) has undergone several changes. Previously, any public insult of a government representative could result in criminal prosecution. However, now punishment is imposed for insulting a government representative or their close relatives in connection with the performance of their official duties, committed in a public speech, in printed

or publicly displayed works, in the media, or on the internet. This change has narrowed the scope of this article but has also broadened the range of actors protected by the law, encompassing both government representatives and their close relatives.

- Article 369-1 (discrediting the Republic of Belarus) has undergone changes. Now, discrediting refers to the dissemination of deliberately false information that discredits the Republic of Belarus in terms of its political, economic, social, military, or international situation, the legal status of its citizens, or the activities of its government bodies. This dissemination must occur in a public speech, printed or publicly displayed works, in the media, or on the internet, with the intention of causing significant harm to the state or public interests. Previously, only providing “deliberately false information” to a foreign state or foreign or international organization was criminalized. Additionally, the maximum sanction under this article has been increased from two to four years of imprisonment.
- The Criminal Code was supplemented with Article 423-1 (failure to comply with a court decision to recognize an organization or individual entrepreneur as extremist, to terminate the activities of a foreign or international organization’s representative office, and (or) to suspend their activities). Under this article, the failure of an organization’s official (whether local or representing foreign/ international entities) or an individual entrepreneur to comply with a court decision on recognizing the organization as extremist, prohibiting its activities, liquidating it, banning the use of its symbols and attributes, or similar court decisions regarding the representative office of a foreign or international organization located in Belarus or an individual entrepreneur, as well as the failure to comply with a resolution on suspending the activities of organizations and individual entrepreneurs based on the legislation on countering extremism, is punishable by a fine, loss of the right to hold certain positions or engage in certain activities, arrest, restriction of liberty for up to three years, or imprisonment for the same term with loss of the right to hold certain positions or engage in certain activities.

On 10 December 2020, amendments were introduced to the Law “On Citizenship of the Republic of Belarus,” which came into effect in June of the following year. Among other amendments, the law included a provision allowing to revoke acquired citizenship if an individual engages in extremist activities or causes serious harm to the interests of the Republic of Belarus. This applies regardless of where these actions were committed, provided they are substantiated by verdicts from Belarusian courts or foreign courts and align with the criteria outlined in specific articles of the Criminal Code of the Republic of Belarus.

On 31 December 2021, amendments to the Criminal Code came into force, introducing criminal liability for calls for sanctions and providing for a penalty of up to 12 years of imprisonment.

Tightening of legislation in 2022

On 5 January 2022, the Law “On Genocide of the Belarusian People” was enacted to establish the state’s sole authority on explaining historical events between 1941–1951. The new Criminal Code Article 130-2, “Denial of the Genocide of the Belarusian People,” introduced by this law, imposes a sentence of up to 10 years of imprisonment.

On 13 May 2022, amendments to the Belarusian Criminal Code were signed, permitting the use of capital punishment for attempting “to carry out acts of terrorism.”

Amendments to the Criminal Procedure Code, which were signed on the 21 July 2022, allow for the option of performing special (in absentia) court procedures for those who are charged with terrorism and extremism but live in foreign countries and ignore summonses to the law enforcement agencies. One of key aims of implementing this legislation was to establish legal grounds to seize the political emigrants’ assets left in Belarus.

Tightening of legislation in 2023

On 6 January 2023, amendments were made to the Law “On the Citizenship of the Republic of Belarus,” enabling the cancellation of Belarusian citizenship, even if acquired by birthright. This will be based on a verdict that confirms an individual’s participation in extremist activities or “causing significant harm to the interests of the Republic of Belarus,” even if such a person is situated abroad. In this legislation, extremism comprises breaches outlined in fifty-five articles of the Criminal Code, presenting a significantly wider definition than that outlined in the framework legislation. Citizenship may be withdrawn for offenses committed before the amendments were enacted.

On 24 March 2023, a new law was adopted to facilitate the application of the death penalty for acts of treason against the state (Article 356 of the Criminal Code) when committed by state officials or members of the armed forces in Belarus. The aforementioned legislation added a new offense to the Criminal Code, found in Article 369-1 – spreading of deliberately false and derogatory information that discredits the country’s armed forces, other military personnel, and paramilitary organizations of the country. A newly added provision, Article 289-1 of the Criminal Code, deals with the propaganda or justification of terrorism, carrying a maximum punishment of seven years’ imprisonment. Finally, the law has increased the maximum fine that can be imposed as an additional punishment for specific crimes related

to terrorism and extremism. The fine can now reach up to \$732,000, which is ten times higher than before, and be imposed for crimes including mass riots, treason, conspiracy, calls for sanctions, creating extremist formations, financing extremism, and several other offenses.

Law enforcement statistics

The number of individuals convicted in the Republic of Belarus under the relevant articles of the Criminal Code from May 2020 to the end of 2022, according to the data from Viasna Human Rights Center.

Number	Article of the Criminal Code	Number of convicted offenders (minimum)
Article 342 Part 1	Organizing and preparing actions that gravely violate public order or active participation in such actions	932
Article 369	Insulting a government official	663
Article 368	Insulting the President of the Republic of Belarus	346
Article 130	Incitement of racial, national, religious or other social enmity or discord	234
Article 370	Desecration of state symbols	110
Article 367	Defamation against the President of the Republic of Belarus	51
Article 391	Insulting a judge or lay judge	49
Article 361	Calls for restrictive measures (sanctions) or other actions aimed at harming the national security of the Republic of Belarus	45
Article 369-1	Discreditation of the Republic of Belarus	16

Number of people convicted in the Republic of Belarus for crimes specified in the Criminal Code between May 2020 and October 2023, according to data provided by the human rights organization Human Constanta.

Number	Article of the Criminal Code	Number of convicted offenders (minimum)
Article 361-1	Establishment of or participation in an extremist group	100
Article 361-2	Financing extremist activities	30
Article 361-4	Facilitating extremist activities	96
Article 293	Mass riots	164
Article 289	Act of terrorism	39

Statistics on the usage of government lists related to “extremism,” as provided by Human Constanta

Restricted access list

As of early December 2022, Belarus has restricted access to a total of 10,229 websites. The list includes 1,324 Internet resources related to various forms of civic activism, 491 websites belonging to independent media outlets, 76 websites dedicated to protecting human rights, as well as websites of solidarity funds.

As of 1 October 2023, the list comprises 4,068 various information materials recognized as extremist. A considerable portion of materials on the list pertain to oppositional Telegram channels and chats, amounting to a total of 1,392 resources. The list comprises websites and social media pages of nearly all independent Belarusian mass media (around 50), as well as opposition resources, human rights organizations, resources of independent political analysts, political satire, and profiles of people who have shared anti-government information on social media. The possession or distribution of extremist material entails administrative consequences under Article 19.11 of the Code of Administrative Offenses resulting in a maximum of 15 days of imprisonment.

List of organisations, groups and individual entrepreneurs involved in extremist activities

As of 1st October 2023, the list comprised 150 groups recognized as extremist by either the Interior Ministry or the KGB, together with two organizations recognized as extremist by the court. The list included 14 regional and national mass media, several notable opposition Telegram channels and local chat rooms, opposition political movements, volunteer military groups of Belarusians abroad, solidarity funds, non-profit organisations, political satire channels and other groups of citizens undesirable to the authorities.

Any form of cooperation with “extremist” organisations or groups (material support, administration and moderation of online resources, transfer of information, interviews, registration in chat-bots) may entail criminal liability.

List of citizens of the Republic of Belarus, foreign citizens or stateless persons involved in extremist activities

As of 1 October 2023, there were 3,358 people on this regularly updated list. In addition to citizens of Belarus, it includes citizens of Russia, Ukraine, Uzbekistan, Kazakhstan, Armenia, Azerbaijan, Germany, and Estonia. The list includes people convicted under charges of extremism for various forms of opposition activity.

List of organisations and individuals involved in terrorist activities

As of 1 October 2023, 1,110 individuals were listed, including 358 Belarusian nationals. People are added to the list on the basis of convictions or charges under both “terrorist” and “extremist” articles of the Criminal Code. In addition to the individuals listed as terrorists or affiliated with terrorist organisations by international bodies, the Belarusian government has added to the list members of the opposition and civil society as well as five Belarussian opposition organizations.

List of Nazi symbols

The Ministry of Internal Affairs established the list on 28 October 2022 with 52 symbols, including the exclamation “Zhyve Belarus!” which the authorities regard as “collaborationist.” This phrase is the most commonly used national-patriotic and opposition slogan in Belarus, and its use may lead to prosecution by the Belarusian authorities. Public display of Nazi symbols is a violation of Article 19.10 of the Code of Administrative Offenses and can result in a fine or administrative arrest.

Number of individuals penalised under pertinent sections of the Code of Administrative Offenses between October 2021 and September 2023, as per the findings of the human rights organisation Human Constanta

Number of Article of the Code of Administrative Offenses (CAO)	Article of the Code of Administrative Offenses.	Number of penalized individuals (minimum)
Article 19.11 CAO	Distribution, production, storage, and transportation of information products that contain calls to extremist activity or advocate such activity	3717
Article 19.10 CAO	Propaganda or public display, manufacture, distribution of Nazi symbols or attributes	326

Russia

From the beginning of 2020 to mid-2023, Russian legislation on countering extremism and related regulations continued a consistent trend of becoming stricter and more expansive.

Changes in criminal and administrative law

These reforms affected a number of provisions of the Criminal Code and the Code of Administrative Offenses.

Laws regarding separatism were revised in 2020. The Criminal Code introduced a strict Article 280.2 (violation of the territorial integrity of the Russian Federation), which provides for up to ten years in prison. At the same time, Article 280.1 of the Criminal Code on calls for separatism was only enforced in cases of repeated violation, while a new Article 20.3.2 was introduced into the Code of Administrative Offenses to penalize first-time violations.

Article 354.1 of the Criminal Code, concerning the “rehabilitation of Nazism,” underwent substantial revisions. These revisions now encompass “insulting the memory of the defenders of the Fatherland” and “humiliating the honor and dignity of veterans” of the Great Patriotic War. Penalties within this article were made more stringent, particularly for offenses committed online. It is important to note that, despite its title, this provision – which saw in 42 sentences in 2022 – is frequently applied to incidents that are not actually related to the propaganda of Nazism or the justification of Nazi crimes. Instead, it is used to punish individuals whose actions may be considered acts of hooliganism or vandalism for non-ideological reasons and to prosecute for criticizing the officially approved World War II narrative. To counter such criticism, Article 13.47 on “equating” crimes committed by the Hitler and Stalin regimes was introduced to the Code of Administrative Offenses. Responsibility for media outlets for all aspects of Article 354.1 of the Criminal Code is now covered by Article 13.15 of the Code of Administrative Offenses, which has also been made more stringent, imposing substantial fines.

In 2020, an amendment was made to Article 20.3 of the Code of Administrative Offenses on the public demonstration of Nazi, extremist, and other prohibited symbols. This amendment stated that displaying such symbols, while simultaneously condemning the associated ideology, would not be punishable. However, this provision is rarely invoked, and in 2022, a repeated violation of it became a criminal offense, leading to the introduction of Article 282.4 in the Criminal Code.

In the summer of 2023, the scope of Article 20.29 of the Code of Administrative Offenses on the production and mass distribution of extremist materials was expanded. It became possible to prosecute individuals under this article for the distribution of materials, both

included in the Federal List of Extremist Materials and not included, if their content meets the definition of extremist materials as outlined in the Law “On Countering Extremist Activity.” This definition has been amended, with portraits of Nazi leaders now classified as extremist materials with no clear basis. Further amendments are expected.

Individuals involved, in a very broad sense, in the activities of organizations recognized as extremist or terrorist organizations were prohibited from participating in elections as candidates.

During this period, the Supreme Court of Russia continued to issue recommendations on the application of anti-extremist laws, but these recommendations had almost no impact on practice. One of the most crucial recommendations stated that former members of banned religious associations should not be prosecuted under Article 282.2 Part 2 of the Criminal Code (participation in an extremist organization) for actions “not related to the continuation or resumption of the activities of an extremist organization and consisting solely in exercising their right to freedom of conscience and freedom of religion, including individual or joint confession of religion, worship, or other religious rites and ceremonies.” This recommendation could have significantly reduced the scope of persecution against Jehovah’s Witnesses in the country. However, the Prosecutor’s Office successfully appealed all acquittals made on this basis.

Starting from March 2022, a particularly large number of new repressive provisions have been adopted, which appear clearly redundant and serve to expand and blur existing laws. Additionally, some of these provisions do not comply with international legal and constitutional criteria for restricting civil liberties. In particular, the following provisions were introduced:

- Article 280.4 of the Criminal Code on public calls for actions against the security of the Russian Federation without defining the nature of these actions, and Article 275.1 of the Criminal Code on confidential cooperation with foreign organizations that threaten state security;
- Article 20.3.3 of the Code of Administrative Offenses on discrediting the actions of the Russian armed forces and officials abroad, accompanied by Article 280.3 of the Criminal Code, which provides for punishment in cases of repeated violations;
- Article 207.3 of the Criminal Code on disseminating “fakes” about the army;
- Article 20.3.4 of the Code of Administrative Offenses on calls for the imposition of sanctions against the Russian Federation, its citizens, or Russian legal entities and related Article 284.2 of the Criminal Code, punishing for repeated violations.

Dynamics of law enforcement

Anti-extremist laws have been actively enforced in three specific areas since 2020: addressing ideologically motivated violence, dealing with “extremist statements,” and prosecuting participation in relevant groups. Based on our admittedly incomplete data, in 2020, the number of criminal cases increased by approximately 70% compared to the two preceding years.

In regards to criminal prosecution for public statements, it should be noted that it has increased in relation to far-rightists, radical Islamists, and supporters of the anti-authoritarian opposition. In the previous period, based on known verdicts, the primary targets of hatred in the incriminating statements were “ethnic enemies,” and, less frequently, “religious enemies.” However, starting from 2020, the focus has shifted towards various representatives of authority, including the top leadership of the country, members of the United Russia political party, government officials, judges, and the police. Therefore, considering the duration of investigations, the shift in this sphere from addressing various forms of xenophobia to targeting various forms of opposition began as early as 2019. The proportion of such cases in the overall number of criminal cases related to public speech known to SOVA Center continues to increase.

In many cases, the defendants did indeed call for violent actions, including against authorities. In the context of an armed conflict, the number of such calls was expected to increase, and indeed, according to the Ministry of Internal Affairs (MVD) data, there was a 55% increase in the number of new criminal cases related to online calls for terrorism (Article 205.2 of the Criminal Code) in 2022, and a 12% increase in cases related to calls for extremism (Article 280 of the Criminal Code). The total number of suspects appears to have exceeded 700 individuals. Based on the cases where we have information about the content of the statements and the circumstances in which they were made, it can be concluded that in the majority of these cases, calls for violence were not adequately assessed in terms of their societal impact. Frequently, these were isolated emotional expressions with limited influence, carrying no substantial risk of actual violence. Consequently, there was no justification for criminal prosecution, let alone the application of severe sanctions, yet in many instances, courts sentenced individuals for such statements to several years of imprisonment. Furthermore, in many cases, the incriminated statements did not even align with the legal elements of the charges brought against the individuals.

Separately, it should be noted that there has been an increasing trend in prosecuting attacks on material objects based on certain ideological motivations, whether these motivations are real or assumed. This encompasses the application of Article 354.1 of the Criminal Code on the rehabilitation of Nazism, particularly in cases involving the

desecration of symbols and dates of military glory, as well as Part 2 of Article 214 of the Criminal Code on vandalism motivated by ideological or political hatred. Criminal prosecution of such actions becomes problematic when the material damage is insignificant because ideological and political enmity per se is not prohibited by law, and there should be no criminal prosecution in cases of insignificant damage. In other words, prosecution arises due to the combination of two factors, neither of which would lead to criminal liability on its own. The number of such cases has seen a particularly noticeable increase since February 2022.

The scope of application of anti-extremist articles from the Code of Administrative Offenses increased even more rapidly, primarily in cases involving the demonstration of prohibited symbols and incitement of hatred. In 2022, over 6,000 people were faced punishment under these two articles, along with the article on the distribution of extremist materials. However, the most extensively enforced provision in terms of legal application since March 2022 has been the one on discrediting of the military and the activities of officials and volunteers abroad. By mid-2023, approximately 7,200 individuals had been subjected to fines under this provision. Other articles introduced in the Administrative Offenses Code in 2022, as previously mentioned, are only applied in isolated cases.

Regarding the new criminal provisions, around 100 people faced legal action for repeated discrediting under Article 280.3, and three dozen of them have already been sentenced, with roughly half receiving fines and almost a third sentenced to imprisonment. Furthermore, more than 180 cases have been initiated, resulting in over 60 convictions under the stricter Article 207.3 of the Criminal Code on “fake news” about the army most often leading to imprisonment and corrective labor. It is important to highlight that in nearly all instances, the statements that triggered legal action did not contain calls for violence; rather, they mainly focused on sharing specific information and expressing opinions regarding the “special operation.”

Between 2020 and 2023, nearly 30 organizations were added to the list of extremist organizations. These encompassed a wide range of groups, including ultra-right organizations, groups of “Citizens of the USSR,” Ukrainian nationalist organizations, ethnic minority movements, the AUE criminal subculture, peaceful religious groups, and liberal opposition associations, such as those affiliated with Alexei Navalny and the Vesna (the Spring) youth movement. Nearly two dozen organizations have been officially recognized as terrorist entities. These include Islamic and right-wing radical groups, anarchist organizations, the school-shooting movement, as well as the Azov Battalion and the Freedom of Russia Legion, both of which were involved in military actions on the side of Ukraine.

Prosecution for participation in extremist and terrorist communities and organizations (correspondingly, Articles 282.1, 282.2, 205.4, 205.5 of the Criminal Code) intensified

before 2020. It targeted members of religious-political organizations recognized as terrorist, both those involved in militant activities (such as ISIS, Jama'at al-Tawhid wal-Jihad, The Caucasus Emirate, and others) and those with peaceful intentions (Hizb ut-Tahrir), as well as members of religious organizations and movements unjustly banned as “extremist” (such as Jehovah’s Witnesses, Tablighi Jamaat, Nurcular), various right-wing radical groups, and fans of the criminal subculture. Starting from 2021, Article 282.1 of the Criminal Code on organizing an extremist community began to be actively used against supporters of Alexei Navalny and participants in other peaceful political associations. From 2022 onward, individuals engaged in combat on the Ukrainian side began facing charges of involvement in terrorist organizations.

The increase in the number of criminal cases was followed by a rise in the number of sentences: whereas in 2016–2017, around 150 individuals were sentenced annually, in 2022, this number surged to over 450. However, in 2022–2023, we observed a sharp decrease in the number of new criminal cases related to the activities of religious organizations. We only learned about a few cases against members of Muslim associations, and the number of new cases against Jehovah’s Witnesses in 2022 decreased by half compared to the previous year, although it slightly increased in the first half of 2023.

Tightening restrictions on access to information

State control in the information sphere, including the Internet, is radically expanding.

The list of types of information subject to extrajudicial blocking upon the request of the Prosecutor General’s Office now includes not only all types of statements mentioned in the Criminal Code and the Code of Administrative Offenses, but also calls for participation in unauthorized actions, materials from “undesirable organizations,” and even links to any content subject to blocking. In the case of repeated violations, the resource will be blocked permanently. Severe fines have been imposed on ISPs for failing to implement content blocking and filtering, and telecommunication operators can be penalized for both non-compliance with blocking orders and insufficient cooperation with traffic monitoring authorities. In the event of a third violation, telecommunication operators can face criminal liability.

Since the beginning of 2021, large social media platforms have been obligated, under the threat of substantial fines (although these sanctions were not officially introduced in the Code of Administrative Offenses until mid-2023) or potential suspension to address user complaints about unlawful content in a broad interpretation. They have also been required to independently identify such content and either block it permanently or keep it blocked until an official decision is made by the authorities. On the other hand, social media platforms are not allowed to delete any content that does not violate Russian

legislation, such as materials from Russian propaganda resources (prompt and severe sanctions have been enforced in this regard).

The Prosecutor General's Office has been given the power to temporarily or permanently suspend registration and broadcasting licenses of Russian media outlets for disseminating any "inaccurate information" or "discrediting" the actions of the Armed Forces and officials abroad, as well as for "disrespecting the authorities," calling for sanctions, rallies or riots, and "propaganda, rationalization and/or justification" of extremism.

As a result, since late February 2022, media outlets, public and political internet resources, and a wide range of media platforms have faced numerous claims from state authorities. This has resulted in the blocking of thousands of resources, including major social media platforms like Facebook, Twitter, and Instagram. The near-complete suppression of independent media has dramatically changed the information landscape for a significant portion of citizens.

Kazakhstan

From the beginning of 2020 to mid-2023, Kazakhstan's legislation on countering terrorism and extremism has progressively tightened and become more restrictive. This shift can, in part, be attributed to the government's response to the tragic events of January 2022 when protests against fuel price hikes escalated into violent confrontations and were forcefully suppressed, resulting in the official estimate of more than two hundred casualties. It's important to note, however, that Kazakhstan's legislative changes often align with developments in counter-terrorism and anti-extremism laws in other CIS member states.

Changes in key profile laws

In May 2020, Kazakhstan introduced numerous amendments to the Law "On Countering Terrorism,"¹⁴ which involved revisions to both conceptual framework and the fundamentals of counter-terrorism organization, prevention, detection, and suppression of terrorist activities. This included an increase in the authority of national security and internal affairs agencies. In 2022, in response to recommendations from the Interparliamentary Assembly of CIS Member Nations regarding legislative improvements, the definition of terrorist activities in the law was significantly broadened.

It appears that the events in January 2022 prompted changes and supplements to Article 13-1 on the administration of the anti-terrorist action. Among other things, these amendments now allow such operations to be carried out in situations of mass disorder. The counter-terrorism operation regime gives authorities extensive powers, including the right to halt, search, detain, and arrest individuals without a warrant, use force, and even employ lethal force against anyone deemed a "terrorist."

The Law of the Republic of Kazakhstan "On Countering Extremism"¹⁵ has remained largely unchanged over the past four years. In her report following her visit to Kazakhstan in 2019,¹⁶ the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Fionnuala Ní Aoláin, expressed deep concern regarding legislative provisions on terrorism and extremism that allow Kazakhstani authorities to seamlessly shift "from the criminalization of acts of terrorism to the criminalization of extremist thought and belief (viewed as the precursor to terrorism)." However, according to the Special Rapporteur's

¹⁴ Law of the Republic of Kazakhstan "On Countering Terrorism", 13 July 1999, no. 416.

¹⁵ Law of the Republic of Kazakhstan "On Countering Extremism", 18 February 2005, no. 31.

¹⁶ Visit to Kazakhstan. Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, United Nations, 20 January 2020 (A/HRC/43/46/Add.1).

assessment, the fundamental paradigm shift that implies “the differentiation between violent and non-violent actions, and between the criminalization of acts and the criminalization of thoughts and beliefs” has not occurred.

Problematic nature of criminal and administrative legislation

The breadth and vagueness in the wording remain a common problem for both the framework legislation on terrorism and extremism and the corresponding provisions of the codes.

The Criminal Code of the Republic of Kazakhstan still contains 15 provisions related to terrorist offenses and 12 related to extremist offenses. Some of them are particularly widely used against political opposition members, civil activists, and religious minorities.

These articles primarily include Article 174 on “incitement to social, national, tribal, class, racial or religious discord,” which often results in lengthy terms of imprisonment. As highlighted by the UN Special Rapporteur in the aforementioned report, this provision allows for “the limitation of the right to freedom of expression on extremely vague and subjective grounds not recognized by human rights law – referring, for example, to undefined terms such as ‘discord’ or an ‘insult to national honour and dignity or religious feelings’,” and “fails to provide legal certainty for individuals to regulate their conduct accordingly.” In practice, court decisions often rely on the opinions of government-appointed and security-cleared ‘experts’,” making them “very difficult in practice to refute or counter.”

Article 256 of the Criminal Code on the propaganda of terrorism or public incitement for terrorist acts has, as highlighted by the UN Special Rapporteur, maintained broad wording, and “contrary to the claim of some government authorities that this article criminalizes incitement of terrorism,” does not include the essential element of “intent to incite terrorist acts” and does not specify a “direct and immediate connection between the action – including an expressive act – and the actual (i.e. objective) risk of terrorist acts being committed.” This enables its abusive application against the media and journalists.

In 2021, activist Erulan Amirov was prosecuted under Article 256 of the Criminal Code for addressing young people; during his address he, among other things, cited the words of a companion of Prophet Muhammad, Abu Said al-Khudri, who said that exposing unjust authorities is the highest form of jihad. In May 2022, he was sentenced to seven years in prison, a cumulative punishment under Article 256 and Article 174 for incitement of social discord, and Article 405 for participation in the activities of the banned Koshe (Köşe) Party movement. In August 2023, this verdict was upheld by the Supreme Court.

The peaceful opposition movement known as the Koshe Party, which the authorities considered a successor to the Democratic Choice of Kazakhstan (QDT) movement, was officially prohibited in May 2020. Since 2018, when the QDT itself was declared extremist despite no evidence of calls for violence or engagement in violent activities, dozens of activists across the country faced criminal responsibility under Article 405 of the Criminal Code (organizing and participating in the activities of public or religious associations or other organizations after a court decision to prohibit their activities or dissolve them due to their involvement in extremism or terrorism). Some activists received lengthy prison sentences, while others faced freedom restrictions.

In October 2021, the Almaly District Court in Almaty issued a verdict against thirteen activists associated with the QDT and the Koshe Party. Four of them – Abai Begimbetov, Askhat Zheksebaev, Qairat Qylyshev, and Noyan Rakhymzhanov – received five-year prison terms, activists Diana Baymagambetova and Dametken Aspandiyarova were sentenced to two years of restricted freedom, while the remaining seven activists were sentenced to one year of restricted freedom.

It is worth mentioning Article 180 of the Criminal Code on separatist activities, which still imposes penalties for non-violent actions, including separatist statements and the dissemination of such materials, and, as highlighted by the UN Special Rapporteur, enables its application “to expression protected under international law.” This often results in severe punishments for residents of border regions.

In 2021, in Petropavlovsk, spouses Evgeniy and Elena Potopa were sentenced to five years of imprisonment for suggesting during a video chat with a resident of Ukraine on the Chatroulette social network that the North Kazakhstan Region might soon join Russia.

In March 2023, in the same city of Petropavlovsk, criminal proceedings were initiated against a local “Citizens of the USSR” group after 20 activists declared the establishment of an independent “People’s Council of Workers of the City of Petropavlovsk” during a meeting and adopted a declaration in which they denied the legitimacy and legality of the creation of the state of Kazakhstan and rejected its independence. Three individuals were arrested under Articles 180 and 179 of the Criminal Code (propaganda or public calls for violent seizure and retention of power).

Even staunch opponents of any integration with Russia can face sanctions under Article 179.

In March 2023, a nationalist named Danat Namazbaev was sentenced to five years of imprisonment, with the court interpreting his posts on Facebook, where he advocated for “radical measures to combat corruption,” as a call to seize power.

The government's response to the protests of January 2022 had a noticeable impact on prosecution statistics in Kazakhstan. In the period from January to April 2022 alone, 124 cases of extremist and terrorist crimes were recorded in Kazakhstan, marking a 39.3% increase compared to the same period in the previous year. Out of these cases, 42 were related to Article 255 of the Criminal Code on committing acts of terrorism, while only nine were related to charges under Article 269 on the seizure of structures, buildings, facilities or means of communication. It's worth recalling the UN Special Rapporteur's observation highlighting that the definition of terrorism in the framework law includes "other actions" that can inflict "significant property damage" or make "international relations more difficult," and that "vaguely worded expressions extend criminalization beyond acts or threats of lethal violence." In second place, there were 22 cases under Article 256 on the propaganda of terrorism, and in third place, there were 18 cases under Article 174 on incitement to discord. Additionally, seven cases involved recruitment, preparation, or arming of individuals with the aim of organizing extremist or terrorist activities. It's important to note that the amnesty law signed in November 2022 and aimed at participants in the protests, did not apply to individuals who had committed terrorist or extremist offenses.

The problem of additional restrictions

In virtually all cases of extremism-related offenses, an extra penalty in the form of prohibition on holding specific positions or engaging in specific activities is imposed under Article 50 of the Criminal Code. Kazakhstani courts construe this article in a manner that allows for depriving an offender of the right to engage in activities lacking clear legal categorization, such as political, social, religious, or union activities.

As clarified by the courts, this implies, for instance, a prohibition on attending locations where protest actions take place, restrictions on participating in events related to political, environmental, or social issues involving international NGOs or organized by socio-political parties or movements, a ban on social media posts "aimed at discrediting the activities of the authorities" or connected to socially significant matters, and so forth.

Journalist Aigul Utepova was convicted in April 2021 under Article 405 of the Criminal Code for her affiliation with Koshe Party. The basis for her conviction was her reporting on the movement's activities, even before it was officially banned. In this context, the court imposed a two-year restriction preventing her from participating in public and political activities, essentially prohibiting her from pursuing her profession.

Special Rapporteur Fionnuala Ní Aoláin highlights that these restrictions, "grounded in the same vague and context-dependent offenses of extremism, prolong disproportionate violations of civil society's rights to freedom of expression, association and participation in public affairs."

The same can be said about the use of administrative supervision applied to individuals who have served sentences for terrorism and extremism offenses, which has also raised concerns for the Special Rapporteur. For instance, such supervision was imposed on activist Maks Bokaev, who served a five-year prison sentence for peacefully protesting against amendments to the Land Code.

The UN Special Rapporteur expressed particular concern in her report about the fact that “the national terrorism sanctions list automatically includes, in addition to individuals convicted of terrorism financing offenses, individuals convicted of other (non-financing) related terrorism offenses, individuals convicted of extremism offenses, as well as persons against whom there is suspicion of involvement in these crimes but against whom there is insufficient evidence for prosecution.” She also noted that “while there is a procedure for individuals to request to be taken off the list,” “there is no transparency” in the listing process for those individuals who have not been convicted of a criminal offense. Exclusion from the list most often occurs upon expiry of a conviction, meaning that depending on the severity of the committed offense, an individual who has served a term of imprisonment may remain on the list for several years (up to 18 in some cases).

Inclusion in this list imposes limitations on individuals’ ability to access funds from their bank accounts (limited to the minimum wage per family member per calendar month), enter into insurance agreements, establish businesses or work as individual entrepreneurs, establish or participate in non-governmental organizations (NGOs), publish media, engage in public activities, access the internet, and more. As the UN Special Rapporteur rightly highlights, the consequences of inclusion in this list affect not only the individuals themselves but also their close relatives, including women and children.

The recommendations of the Special Rapporteur included that “the basis for listing persons under terrorism financing provisions must be fundamentally reviewed to ensure conformity with existing international obligations,” and that “the use of financial penalties and controls against civil society actors, minority religious groups and other vulnerable actors must be stopped.”

In May 2020, Article 12 of the Law “On Counteracting the Legalization (Laundering) of Proceeds from Crime and Financing of Terrorism” (Law on AML/CFT) was renamed from “List of Organizations and Persons Associated with the Financing of Terrorism and Extremism” to “Targeted Financial Sanctions Related to the Prevention of Terrorism and the Financing of Terrorism.” However, the reference to extremism was removed only from the title being retained in practically all the provisions of this article. Simultaneously, stricter control over the financial activities of both legal entities and

individuals by financial monitoring bodies, primarily second-tier banks, was introduced. Since 2022, the law also granted the ability to include foreign structures without legal entity status in this list.

As of March 2023, the list included 1,468 individuals and organizations.

In May 2020, the Law on AML/CFT¹⁷ was also supplemented with Article 12-2 on “measures to protect charitable organizations and religious associations from being used to finance terrorism.” For unclear reasons, the measures initially targeted only these specific types of non-governmental organizations (NGOs). However, by September of the same year, new regulations for financial monitoring were implemented, bringing transactions by any NGOs under heightened scrutiny. While these measures do not impose burdensome obligations on non-profit organizations, they do subject them to special attention from authorized bodies for unclear reasons, potentially creating additional operational challenges.

The establishment of a new regulatory authority, the Financial Monitoring Agency of the Republic of Kazakhstan, which took over the functions and powers that were previously handled by the Ministry of Finance’s committee, is also worth noting. The relevant provisions amending the Law on AML/CFT in February 2021 were subsequently modified, further expanding the Agency’s authority.

Restrictions on access to information

In the report on her visit to Kazakhstan, the UN Special Rapporteur noted that “in the course of her meetings and information provided by the Government, it is clear that certain websites, including social media, music streaming and others, were and continue to be blocked in their entirety on the orders of the Prosecutor General on very broad grounds.” She also expressed concern about the fact that “despite existing legal provisions, the Government itself appeared wholly unclear about the legal basis of, and the procedure and the responsibility for the adoption of these measures.”

The Special Rapporteur’s cautionary statement was not taken into account. The total internet shutdown during the January 2022 protests, which resulted in numerous negative consequences – from the accidental fatalities among people unaware of the state of emergency imposed in their cities to a complete breakdown of the entire infrastructure – was enacted in the name of counter-terrorism and public safety.¹⁸ Although the authorities partially acknowledged these consequences, those

¹⁷ Law of the Republic of Kazakhstan “On Counteracting the Legalisation (Laundering) of the Proceeds of Crime and the Financing of Terrorism”, 28 August 2009, no. 191-IV.

¹⁸ Yelzhan Kabyshev. Internet Shutdown // The Landscape of Digital Rights and Freedoms, March 2022 (https://drfl.kz/shutdown2022/ru/post/internet_shutdown).

responsible for them were not held accountable, and no legislative restrictions were imposed on the potential use of such measures in the future.

However, according to statistics provided by the Ministry of Information and Social Development (MISD), there has been a significant decrease in the number of internet pages blocked for their content related to propaganda of religious extremism, terrorism, undermining the constitutional order, offenses against the honor and dignity of the head of state, and incitement to various types of hostility in the past two years; and this trend is ongoing.¹⁹ On the other hand, in 2022, MISD itself attained additional powers to block foreign messenger platforms as part of measures to combat cyberbullying, as well as to analyze and monitor the activities of NGOs “for potential risks related to terrorism financing.”

¹⁹ Restriction statistics for 2014–2023 // Internet Freedom Kazakhstan, September 2023. (<https://ifkz.org/ru/restriction/statistics>).

Kyrgyzstan

In Kyrgyzstan, two significant developments occurred in the period from 2020 to mid-2023 in the field of combating extremism. First, the country underwent another round of reforms in its criminal law, including the implementation of new legislation, namely the new Criminal Code, which came into effect on December 1, 2021. Second, on February 24, 2023, a new law “On Countering Extremist Activities” was signed.

Changes to criminal legislation

Among the changes made to the “anti-extremist” provisions of the Criminal Code of Kyrgyzstan, the following can be highlighted.

In the previous Criminal Code, Article 310 (public calls for the violent seizure of power) prescribed penalties of up to two and a half years of imprisonment only under Part 2 (when the crime is committed using mass media or by a group of individuals in conspiracy). However, in the new Criminal Code’s corresponding Article 327, imprisonment for up to three years can be imposed without the need for qualifying factors, and with these factors, the punishment can range from three to five years.

Article 330 of the new Criminal Code (incitement to racial, ethnic, national, religious, or inter-regional hostility or discord) corresponds to Article 313 of the 2017 Criminal Code. The difference lies in the fact that while in the old Criminal Code, Part 1 of this article provided for penalties ranging from five to seven and a half years of imprisonment, while the new Code allows for fines ranging from one to two thousand calculation units or imprisonment for up to five years. This means that the associated crimes have been reclassified to less serious offenses. Additionally, the prison terms under Part 2 of this article have also been reduced, with the new range being from five to seven years, whereas it was previously from seven and a half to ten years. Meanwhile, the 2023 Law “On Countering Extremist Activities” has redefined the concept of inciting enmity (discord), now considering it extremist activity even if it is not connected to violence or calls for violence (further details below).

Article 314 (forming an extremist organization) and 315.1 (financing of extremist activities) of the old Criminal Code have been consolidated into Article 331 in the new version, along with some adjustments to the penalties. Specifically, both the establishment of an extremist organization and the coordination of the activities of a previously prohibited organization, when committed by a group of individuals or through the abuse of an official position, are now punishable under Article 331 Part 4 of the Criminal Code with sentences ranging from 12 to 15 years of imprisonment (unlike the old Criminal Code, which did not include such qualifying factors in Article 314).

However, in the majority of cases related to extremist crimes, as monitored by Bir Duino Kyrgyzstan, another article from the new Criminal Code is frequently applied – Article 332 (producing and disseminating extremist materials). This article corresponds to Article 315 in the previous Criminal Code, with no significant differences in their provisions. The differences in penalties are also relatively minor (Article 332 of the new Criminal Code prescribes penalties of up to five years of imprisonment for Part 1 and up to seven years for Part 2, which now includes qualifying criteria related to the abuse of official positions and the organization of public events).

Nonetheless, under Article 83 of the previous Criminal Code, when imposing an imprisonment sentence of up to five years, the court had the discretion to release convicted individuals under probation supervision. This meant that in cases falling under Article 315 Part 1 of the Criminal Code, courts could choose not to imprison the defendants. However, the new Criminal Code, specifically Article 82, stipulates that probation supervision is not applicable to crimes against the foundations of the constitutional order and state security. Consequently, all individuals convicted under Article 332 of the Criminal Code are now subject to imprisonment without any exceptions.

Problem with the application of expertise

Just as in the past, charges under Article 332 of the Criminal Code are often related to religious informational materials reportedly discovered during searches or to conversations on social media and messaging platforms (such as WhatsApp, Telegram, etc.). The Law “On Countering Extremist Activities” specifies that materials can only be recognized as extremist through a court decision based on a prosecutor’s application (the revised law now explicitly includes the requirement of a court injunction in the definition of extremist materials). However, in practice, opinions of religious studies experts are still regularly used as evidence in these cases. These opinions typically only state whether examined information material can be tied to an extremist and/or terrorist organization. Religious studies experts generally arrive at such conclusions based solely on the presence of words like “jihad” or “caliphate,” the attributes of a prohibited organization, or references to its ideology in the materials under examination. The context and meaning of the statements are not explored, nor is the question of incitement to violence or lack thereof.

The content and intent of these calls could potentially be analyzed through psycholinguistic examination. The State Forensic Service under the Government of the Kyrgyz Republic has developed a manual for conducting religious expertise and comprehensive psychological and linguistic analysis, which has received approval from the Scientific and Methodological Council of the State Center for Forensic

Expertise under the Ministry of Justice of Kyrgyzstan.²⁰ However, in practice, forensic psycholinguistic examinations are not being conducted due to a lack of experts.

A recent example of legal enforcement can be seen in the case of Rashid Yuldashev, a native of the village of Kashgar-Kyshtak in the Kara-Suu district of Osh Region, which is being heard by the Osh City Court. Yuldashev is facing charges under Article 332, Part 1 of the Criminal Code, for distributing materials related to the Islamist political party Hizb ut-Tahrir via WhatsApp. This organization has been officially recognized as extremist in the Kyrgyz Republic. In particular, he sent these materials to Ziyoydin Ermatov, who then forwarded them to other recipients. Ermatov was sentenced in September 2022 under the same article to one year of imprisonment. The main evidence in the case was the opinion of a religious studies expert, which stated that the Al-Wayi magazine contained the Hizb ut-Tahrir ideology since it had published specific guidelines on when to start the month of Ramadan and the opinions of students at Birzeit University regarding the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

New anti-extremist law

The Law “On Countering Extremist Activities,” adopted in 2023, introduced several conceptual changes to the government’s approach to combating extremism. It completely eliminated the term “extremism” from the legal framework, now using only the concept of “extremist activities.” This definition now encompasses armed rebellions, forming or participating in extremist organizations (not considered extremist activities under the old law for unclear reasons), the “use” of attributes and symbols of extremist organizations, even in non-public contexts, and any actions carried out “for extremist motives” that involve violence or lead to violent acts. Meanwhile, the following are no longer classified as extremist activities: terrorist activities, humiliation of national dignity, propaganda and public display of Nazi symbols, and incitement of “social discord.” However, as mentioned earlier, incitement of hatred (discord) no longer necessarily needs to be linked to violence to be considered extremist activity.

The definition of extremist materials and the provisions of the law regarding their distribution underwent several changes. Official materials of extremist organizations are no longer automatically classified as extremist. However, considering that these materials substantiate the activities of these organizations (which are now formally considered “extremist activities”), it is evident that courts may classify them as extremist materials solely on this basis.

²⁰ Methodological guidance for conducting religious and complex forensic psychological and linguistic analysis in the Kyrgyz Republic, Bishkek, 2021 (https://www.unodc.org/documents/centralasia/2021/publications/Second_Edition_of_Manual_on_Comprehensive_Religious_Psychological_and_Linguistic_Expertise_in_Terrorism_and_Extremism_Related_Cases_in_the_Kyrgyz_Republic.pdf).

As mentioned earlier, the requirement for materials to be deemed extremist by a court decision was already present in the law, but now it is explicitly incorporated into the definition of extremist materials. Additionally, the law now explicitly states that the presence of extremist features in the material should be determined by an expert examination.

The provisions of the law on preventing the use of telecommunications for extremist activities now specify that the prohibition on disseminating information in such cases is based on a court decision. Previously, there were no provisions addressing the issue of blocking.

Furthermore, the legislation now explicitly states that possession of materials from prohibited organizations and materials deemed extremist is prohibited only if there is an intent to disseminate them.

In accordance with this provision, the law incorporates clauses regarding the issuance of warnings to individuals. Such warnings are issued to individuals who have possessed extremist materials or publicly endorsed the actions of extremist organizations but have not faced criminal charges. A preventive conversation is also conducted in such cases.

The law has also introduced changes regarding the accountability of organizations and media outlets. Now, warnings are issued to them only for disseminating extremist materials and publicly endorsing the actions of extremist groups, rather than for any activities showing “signs of extremism.” Under the new law, these warnings are issued not by a regulatory body or the prosecutor general, but by law enforcement or state security agencies based on the results of a preliminary investigation of an official. Violations must now be rectified immediately or within a specified timeframe, which should not exceed 10 days (compared to the previous law that allowed at least 10 days for this). In case of failure to rectify the violations (and for media outlets, in case of repeated violations within a year), the Prosecutor’s Office files a court claim to terminate the organization’s operations, based on expert examination.

The process of prohibiting organizations due to their involvement in extremist activities has also undergone changes. Previously, the grounds for a ban could be either the failure to rectify violations after a warning or engaging in extremist activities that threaten human rights and freedoms, public order and safety, society and the state, etc. Now, the basis for such a ban is simply “information and facts confirming their involvement in extremist activities.” The corresponding lawsuits can now only be filed by the Prosecutor’s Office (previously, judicial bodies also had this authority). Furthermore, a court must request an expert examination to establish the presence of extremist activity.

The list of extremist organizations (as well as extremist materials) will be maintained and regularly updated on the website of the Prosecutor General’s Office.

Tajikistan

The adoption of the National Strategy of the Republic of Tajikistan for Countering Extremism and Terrorism for the years 2016–2020, along with the ratification of the Shanghai Cooperation Organization Convention on Combating Extremism on 21 February 2018, marked the beginning of an overhaul of the legal and institutional framework, as well as practices for countering extremism and terrorism in Tajikistan.

New anti-extremism legislation

On 2 January 2020, the President of the Republic of Tajikistan enacted a new Law “On Countering Extremism,”²¹ which replaced a similar law from 2003. In its new version, the law partially retains the structure and many provisions of the previous law but introduces significant changes.

Previously, the term “extremism” in the law was defined as “manifestation ... of extreme forms of the actions calling for destabilization, change of the constitutional system in the country, seizure of power and takeover of its powers, incitement of racial, ethnic, social and religious enmity.” Now, it is defined as “an expression of ideology and extremist activities aimed at resolving political, public, social, national, racial, regional and religious issues by force and other illegal actions.” In this regard, for the first time, extremism is defined in terms of “ideology” and “extremist activities” and is associated with the use of violence. However, the term “ideology of extremism” is not defined in the law.

The definition of “extremist activities” in the law has been expanded to include a broader spectrum of actions. In addition to actions aimed at inciting enmity or discord, or calling for the violent seizure of state power and violent change in the constitutional order, it now encompasses “planning, organizing, preparing for and committing actions constituting extremist activity that destabilizes national security.” As a result, the definition of “extremist activities” is now partly recursive.

The definition of this term has been shortened, but Article 3 of the law provides a more detailed list of actions that constitute extremist activities, and this list has been expanded compared to the previous version of the law. The additions include inciting “regional enmity”; violating the rights, freedoms, and legitimate interests of individuals in connection with their “clan” affiliation; “impeding or coercion to change the nature of the legitimate activities” of government bodies and election commissions; the use of violence or threats of its use against law enforcement officers, government officials, and even their family members “with the aim of revenge for actions related to the performance of

²¹ The Law No. 1655 of the Republic of Tajikistan “On Countering Extremism”, ADLIA, 2 January 2020. (http://www.adlia.tj/show_doc.fwx?rgn=135399).

official duties”; propaganda and publicly display of the coat of arms, flag, or other symbols of extremist organizations; dissemination of extremist materials, their production, and storage for distribution; and publishing and distributing “materials of an extremist nature” in mass media and on the internet.

There is no definition of the concept of “materials of an extremist nature” in the law, but it does provide a definition for “extremist materials.” Previously, this category included materials from extremist organizations and other materials that displayed signs of extremism. Under the new law, extremist materials encompass materials on all types of physical media that either contain the “ideology of extremism” (which, as previously stated, remains undefined), or “incite, defend or justify the implementation of extremist activities.”

Under the previous version of the law, the court was responsible for determining whether materials exhibited signs of extremism. However, Article 19 of the new law stipulates that materials are now recognized as extremist on the basis of an expert opinion conducted by an authorized government agency. This means that the legal requirement for a judicial process to prohibit materials has been completely eliminated. In practice, decisions regarding these materials are made by various government bodies: the Committee on Religious Affairs under the government of Tajikistan deals with religious materials, the Ministry of Culture handles other literature, and the Ministry of Internal Affairs is responsible for websites of prohibited organizations. It’s important to note that independent expertise is unavailable in Tajikistan, and there is still no publicly accessible official list of materials classified as extremist.

The definition of an “extremist organization” has been expanded to include the possibility of categorizing a political party as such. Additionally, the law now outlines specific consequences for an organization recognized as extremist. These consequences include bans on creating successor organizations and on presence of foreign citizens on the territory of the Republic of Tajikistan as representatives of these organizations.

It’s important to note that since 2020, the number of organizations banned in Tajikistan has slightly increased, with approximately two dozen currently on the list. Furthermore, this list has expanded to include online publications. For instance, in 2023, the Supreme Court of Tajikistan declared that the websites Pamir Daily News and New Tajikistan 2 were extremist organizations.

The new legislation provides a definition for financing extremism, which includes not only direct but also “indirect” provision of funds for “committing extremist actions.”

In the previous law on countering extremism, there was no delineation of the procedure for blocking online content. However, under Article 17 of the new law,

materials containing “extremism propaganda” are subject to extrajudicial blocking by the Communication Service within the Tajikistan government, without an established appeals procedure.

Under the previous legislation, individuals who were found to have “engaged in extremist activities” could face court-mandated restrictions on entering public service, military service and service in law enforcement agencies, as well as employment in educational institutions, and engagement in private legal practice. In contrast, Article 26 of the new law specifies that these restrictions (except for the ban on legal practice, which has been removed from the revised list) can only be imposed on individuals who have been convicted of carrying out extremist activities. Furthermore, these restrictions are now implemented “in the order established by the legislation” as opposed to being subject to individual court rulings.

Other legislative initiatives

Additionally, in 2022, amendments were made to the Law “On Freedom of Conscience and Religious Associations,” stipulating that individuals who have committed terrorist or extremist crimes cannot serve as “founders or employees of religious associations.”

In 2020, a new administrative penalty was introduced for inciting enmity or discord. Under newly added Article 462(1) of the Administrative Offenses Code, individuals can face penalties if they are found guilty of “inciting social, racial, national, regional, or religious (confessional) enmity or discord.” These penalties may include fines ranging from 50 to 100 “calculation units” (annually set by the government), or administrative arrest for a period of five to ten days. For repeated violation of a similar nature within a year, individuals face responsibility under Article 189 Part 1 of the Criminal Code of Tajikistan – imprisonment ranging from two to five years. Parts 2 and 3 of Article 189 of the Criminal Code (which include aggravating circumstances) remain unchanged.

Enforcement trends

Starting from 2020, the extensive application of anti-extremism legislation in Tajikistan has led to a severe crisis in the exercise of civil rights. Essentially, any form of critical expression directed towards the state by dissenting voices can result in criminal liability for incitement to extremism, igniting interethnic hatred, or attempting to undermine the constitutional order. Over the past three years, more than 50 activists, journalists, bloggers, human rights defenders, lawyers, and defense attorneys have been prosecuted for criminal offenses.

In 2022 alone, numerous activists and journalists, among them Ulfatkhonim Mamadshoeva, Daler Imomali, Avazmad Gurbatov, Abdusattor Pirmukhammadzoda,

Zavqibek Saidamini, and Mamadsulton Mavlonazarov, received prison sentences ranging from 7 to 21 years. Law enforcement agencies assert that these journalists were either members of prohibited organizations or received financial support from banned opposition parties abroad, despite the party leaders denying these allegations. Specifically, these charges targeted the Islamic Renaissance Party and the opposition movement known as Group 24.

In 2023, the pattern of legal prosecution persisted, exemplified by the case of Rustam Choni, who was charged in absentia for organizing the activities of an extremist organization while living abroad. Additionally, journalist Khurshed Fozilov faced a similar accusation, resulting in a seven-year prison sentence pronounced by the Penjikent City Court in May 2023.

These legal proceedings typically occur behind closed doors in the Dushanbe pre-trial detention center. Family members, colleagues, and human rights advocates are not permitted to attend the court sessions, while defense lawyers are obliged to sign non-disclosure agreements regarding the details of the preliminary investigation.

The pressure extends beyond individuals and affects various organizations as well. In particular, Tajikistani authorities escalated their crackdown on civil society in the Gorno-Badakhshan (Badakhshan Mountainous Autonomous Region) following protests that occurred there in May 2022. As stated in August 2023 by Deputy Minister of Justice Asadullo Khakimzoda, over the past six months, five civic organizations in the region had their activities suspended: the Pamir Lawyers Association, Nomus va Insof, Pyanj, Youth of Ishkashim District, and Klubi Gushtini Shaidon. According to Khakimzoda, these organizations were dissolved by court decision because they were found to have “ties to criminal groups and were financed by them.” For instance, the Pamir Lawyers Association effectively ceased its operations after the Supreme Court of Tajikistan sentenced its leader, Manouchehr Kholiqnazarov to 16 years in a penal colony by in December 2022 on charges of organizing a criminal association and organizing the activities of an extremist organization. Similarly, the Nomus va Insof civic organization was dissolved following the conviction of its founder, above-mentioned Ulfatkhonim Mamadshoeva.

Tajikistani authorities have intensified their efforts to request the extradition of individuals, who have sought asylum in foreign countries – activists, human rights defenders, journalists, and members of political parties. For example, in February 2022, Belarus extradited Tajikistani opposition activist Nizomiddin Nasriddinov to Tajikistan. Nasriddinov faced criminal charges related to publicly calling for extremist activities or justifying extremism under Article 307(1) of the Criminal Code.

In December 2022, Tajikistan received an official visit from Mary Lawlor, the United Nations Special Rapporteur on the situation of human rights defenders. Following her visit, she presented a report condemning the arrests and imprisonment of journalists, bloggers, and civil activists. She also noted that the supporters of those who were convicted, as well as international human rights organizations, consider these cases to be politically motivated.

Uzbekistan

Following a change of power in 2016, the Republic of Uzbekistan initiated a series of reforms. The new president stated that these reforms were aimed at establishing a democratic state and a just society. Amendments were made to the constitution regarding citizen participation in political life and ensuring the independence of the judiciary; the powers of special services were limited; and conditions for the functioning of the media outlets, civil society organizations, and international human rights organizations improved. The initial steps on this path were marked by the release of numerous individuals who had been imprisoned for their political and religious beliefs during the rule of Islam Karimov.

However, as the 2021 elections approached, the Uzbekistan government's commitment to democratic reforms began to weaken, giving way to more authoritarian standards and practices.²² Persecution of independent journalists, bloggers, civil activists, and human rights defenders became more frequent, and pro-government voices began to dominate the media landscape. Internet access, particularly to social networks and certain independent and foreign media websites, remained unstable, with sporadic internet shutdowns still in use. The authorities hinder the registration of disfavored religious groups and once again place the previously released activists under control or subject them to new sanctions; they also inappropriately initiate criminal cases against believers. The practice of torture and cruel treatment of detainees, along with intimidation of their relatives, has continued. Those involved in the unrest in the sovereign Republic of Karakalpakstan – a part of Uzbekistan – were subject to criminal prosecution. The protests against constitutional amendments, which aimed to strip the Republic of Karakalpakstan of its sovereign status and the right to hold an independence referendum, were suppressed by the National Guard and police in July 2022 resulting in the deaths of several dozen people, but only the protesters faced legal consequences.

The Law “On Countering Extremism,”²³ signed in July 2018, and the related articles of the Criminal Code and the Administrative Responsibility Code became a convenient tool for limiting civil rights and freedoms.

²² See: Uzbekistan: President's Broken Promises Puts Journalists and Bloggers at Risk, Uzbek Forum for Human Rights, 20 January 2023 (https://www.uzbekforum.org/wp-content/uploads/2023/07/UZBEK-FORUM_freedom_of_speech.pdf).

Uzbekistan: Backsliding on Religious Freedom Promises. Muslims Prosecuted; Faith Face Registration Obstacles, Human Rights Watch, 24 May 2023 (<https://www.hrw.org/news/2023/05/24/uzbekistan-backsliding-religious-freedom-promises>).

Uzbekistan: 16-Year Sentence in Autonomous Region Protests. Still No Justice for Karakalpakstan Deaths, Injuries, Human Rights Watch, 8 February 2023 (<https://www.hrw.org/ru/news/2023/02/08/uzbekistan-16-year-sentence-autonomous-region-protests>) and others.

²³ The Republic of Uzbekistan Law No ZRU-489 “On Countering Extremism”, 30 July 2018.

Law of the Republic of Uzbekistan “On Countering Extremism”

In November 2019, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) issued their comments on this law.²⁴ In this document, it was noted that the “breadth and ambiguity of the definitions” used in the law cast doubts regarding its very purpose and the potential range of prohibited conducts or activities “creating the risk of it being used as a tool for the suppression of legitimate activities such as political dissent, democratic participation, human rights or civic activities. The ODIHR was particularly concerned with the terms “extremism,” “extremist activity,” and “extremist materials.”

The law defines extremism broadly as “expression of extreme forms of actions, focused on destabilizing the social and political situation, violently changing in the constitutional order in Uzbekistan, violent seizure and usurpation of power, or inciting national, racial, ethnic or religious hatred.” The first part of this definition raises concerns due to its vague terms, such as “extreme forms of actions” and “destabilizing social and political situation.”

To further clarify the concept of “extremism,” the framework law lists types of prohibited extremist activities that result in liability. These activities encompass “activities for planning, organizing, preparing or committing actions” focused on: violent change of the foundation of the constitutional system, territorial integrity and sovereignty of Uzbekistan; seizing or usurping government powers; creating or joining illegal armed groups; engaging in terrorist activity; production, storage and dissemination or demonstration of materials containing threat to public order and security as well as production, storage and dissemination or display of attributes or symbols of extremist organizations.

The law also classifies the following as extremist activities: incitement of national, racial, ethnic, or religious enmity involving violence or call for violence, engaging in mass disorders motivated by racial, national, ethnic, or religious hatred or enmity, as well as hatred or enmity of ideological or political nature, or directed against any social group.

Under the law, public calls to engage in any of the previously mentioned forms of extremist activities are considered a distinct type of extremist activity. This provision raises particular concern for the ODIHR, which emphasizes in its analysis that simply peacefully expressing views that are considered “radical” or “extreme” under any definition should never be prohibited or criminalized, unless they are associated with violence or criminal activity or constitute a clearly dangerous incitement to violence. Many elements of the aforementioned definitions provided in the law do not establish this necessary connection, especially in the case of calls for extremist activities. As the ODIHR pointed out, the law permits the classification of actions such as “imparting

²⁴ Comments on the Law on Countering “Extremism” of the Republic of Uzbekistan, OSCE/ODIHR, 22 November 2019 (<https://legislationline.org/taxonomy/term/23979>).

information or ideas contesting the established order or advocating for a peaceful change of the Constitution or legislation,” promoting minority rights, advocating for LGBTI rights, calling for the recognition of regional autonomy, or peacefully advocating for the secession of part of the country’s territory as extremist activities.

The law in Uzbekistan introduces a distinctive status known as “an extremist,” which refers to “a person involved in the execution of extremist activities as well as traveling abroad or across territory of Uzbekistan for participation in extremist activities.” This status is unique and doesn’t have equivalents in the legislation of other regional countries.

Criminal and administrative legal norms

A number of administrative and criminal provisions are to some extent related to the concepts of “extremism” and “extremist activities,” and they also feature broad wording, creating the risk of arbitrary application.

- Article 201-1 of the Administrative Responsibility Code imposes fines for publicly calling for non-compliance with or violation of the requirements of any legislative acts of Uzbekistan, creating a threat to public order and public safety. This includes actions conducted through mass media, the internet, printing methods for reproducing text, and other means.
- Article 156 of the Criminal Code – incitement of national, racial, ethnic, or religious enmity – outlines penalties for intentional actions that degrade national honor and dignity, insult the feelings of citizens based on their religious or atheistic beliefs (it’s worth noting that no other countries on the territory of the former USSR have equivalent provisions equating the feelings of atheists with those of believers), and are committed with the intent to incite enmity, intolerance, or discord among population groups based on national, racial, ethnic, or religious characteristics. It also covers the direct or indirect curtailment of rights or the granting of direct or indirect privileges based on these characteristics. The penalties for such actions range from a restriction of freedom for two to five years to imprisonment for up to five years. In cases involving aggravating circumstances, such as using life-threatening methods, causing severe bodily harm, forcibly evicting citizens from their permanent residences, or committing these acts as a public official or in collusion with a group of individuals, the punishment can be imprisonment for five to ten years.
- Article 158 of the Criminal Code not only punishes attempts on the life of the president (10–20 years of imprisonment) and intentional harm to the president’s person (5–10 years of imprisonment) but also public insult or defamation of the president, including the use of print or other media and the internet. For these

offenses, corrective labor for up to three years or restriction/loss of freedom for two to five years is prescribed.

The introduction of the provision on insults and defamation of the president on the internet in 2021 signaled a shift by the government towards restricting freedom of expression in the country. This specific part of the law soon began to be enforced against independent bloggers. The first person to face legal consequences was Valijon Kalonov. He was arrested in October 2021 after posting a video message in which he alleged the president's involvement in corruption, criticized his relations with China and Russia, called on Mirziyoyev not to run for a second term, and encouraged citizens to boycott the upcoming elections. Kalonov was charged with insulting the president and disseminating materials on social media that were deemed a threat to public safety and order. He was subsequently declared mentally ill and remains in a high-security psychiatric facility to this day.

Another example of the application of this article is the case of Sobirjon Babaniyazov. In February 2022, received a three-year prison sentence for posting messages considered to be "insulting and humiliating the dignity of President Karimov and President Mirziyoyev." This included a short video in which he threw one of his shoes, remarking, "this is Karimov," and the other while saying, "this is Mirziyoyev."

- Article 159 of the Criminal Code establishes sanctions for public calls for: unconstitutional changes to the existing state system, seizure of power, or removal from power of lawfully elected or appointed officials, unconstitutional violations of the territorial integrity of the Republic of Uzbekistan, as well as production, storage with the intent to distribute, or distribution of materials with similar content. Penalties for these offenses include fines, restrictions of freedom ranging from two to five years, or imprisonment for up to five years. In cases involving aggravating circumstances, the imprisonment term may extend from ten to twenty years.
- Article 244 of the Criminal Code on publicly inciting mass disorder and violence against citizens establishes sanctions, including fines, corrective labor for up to two years, or freedom restrictions ranging from three to five years. When these actions involve the use of media, the internet, print, or other information dissemination methods, the maximum penalty can extend to ten years. Specifically organizing mass disorders or actively participating in them can result in imprisonment for a duration of 10 to 15 years.

Regulation of activities of organizations

The law defines an extremist group as “two or more persons, who are undertaking extremist activities or attempting to do so based on prior collusion.” Meanwhile, an extremist organization refers to an entity that has been prohibited and dissolved by the court due to its involvement in extremist activities. The request to declare an organization as an extremist organization must be submitted to the Supreme Court by the Prosecutor General of Uzbekistan. Despite Article 34 of the Constitution, which states that “state bodies, organizations, citizens’ self-governing bodies and their officials shall allow everyone access to documents, resolutions and other materials, relating to their rights and legitimate interests,” court decisions regarding the recognition of organizations as extremist are often not made public. The Ministry of Justice in Uzbekistan publishes a unified list of prohibited organizations and materials on the official open data portal of Uzbekistan. However, this list does not specify whether an organization has been designated as terrorist or extremist.²⁵

Among the organizations recognized by the Supreme Court as terrorist or extremist and prohibited in Uzbekistan are the following: the Islamic Jihad Union, Al-Jihad, Al-Qaeda, the Islamic State, Global Fund for Jihad, Jihadists, the Muslim Brotherhood, Jamaat-e-Islami, the Grey Wolves (also known as Bozkurt), the Abu Sayyaf group, Jamaat Ulema-e-Islam, Jama’at al-Tawhid wal-Jihad, Jamaat Ansarullah, Katibat Imam al-Bukhari, Jabhat al-Nusra, the Islamic Movement of Turkestan, the East Turkestan Liberation Organization, the East Turkestan Islamic Movement, Akromiya, Hizb ut-Tahrir, Tablighi Jamaat, Nurcular, and so on.²⁶

Creating, leading, or participating in religious extremist, separatist, fundamentalist (although the concept of fundamentalism is not defined in the legislation), or other prohibited organizations falls within the scope of Article 244-2 of the Criminal Code, which stipulates punishment in the form of imprisonment from five to fifteen years. In cases where these actions result in serious consequences or involve a minor, the penalty can be imprisonment for a term ranging from fifteen to twenty years.

Charges under Article 244-2 of the Criminal Code are frequently brought against peaceful Muslims. For instance, in the spring of 2022, a follower of the Turkish theologian Said Nursi, Bobirjon Tukhtamurodov, who had been residing in Russia since 2010, returned to Uzbekistan. In Russia, he faced charges in 2018 for being

²⁵ Lists of extremist organizations. Open Data Portal of the Republic of Uzbekistan, September 2023 (<https://data.egov.uz/rus/data/6107d0f52a2e256d868e86d6>).

²⁶ Identification of common problems faced by target groups, including local population, vulnerable groups and stakeholders (state structures and civil society), Center for Studying Regional Threats, November 2020 (https://crss.uz/wp-content/uploads/2020/11/Исследование_версия_с_иллюстрациями_1-2.pdf).

associated with the extremist religious organization Nurcular. However, he was not criminally prosecuted but was instead fined for committing a first-time moderate severity crime. In early 2022, Russian authorities did not renew Tukhtamurodov's residence permit, leading him to contact authorities in Uzbekistan, apparently being assured that he could return to his homeland without the risk of arrest. However, upon his arrival, he was arrested directly at the airport and subsequently sentenced to five years of imprisonment under Articles 244-2 and 244-1 of the Criminal Code for disseminating prohibited materials.

Other measures to counter extremism

Among the measures aimed at combating extremism, many of which have faced criticism in the OSCE ODIHR's comments, there is a provision outlined in the framework law for issuing warnings to officials and individuals regarding the impermissibility of extremist activities. Such warnings are issued when there is "adequate and pre-fact-checked information about the forthcoming illegal actions that exhibit signs of extremist activities and in absence of the grounds for prosecution." While the authorized government body must specify the precise reasons for issuing these warnings, it is important to note the ambiguity of the wording "forthcoming illegal actions that exhibit signs of extremist activities," as it allows for broad and arbitrary interpretations.

Organizations face an even greater risk. In cases involving unlawful activities of a legal entity that exhibits signs of extremism, a prosecutor or a representative of another authorized government body issues a notice to the entity's officials regarding impermissibility of such violations, setting a deadline for correction. If these violations are not corrected within the specified timeframe or if, within one year after issuing the notice, new facts are discovered "indicating signs of extremism," the operation of the legal entity can be suspended by the prosecutor or another government body for up to six months or "prohibited by the ruling of the Supreme Court." This means that an organization's operations can be suspended or terminated, even if they do not involve criminal offenses.

Under the law, warnings and notices can be appealed either by escalating the matter to a higher-ranking official within the relevant government body or by taking legal action. This implies that administrative appeals are viewed as an available alternative to judicial appeals, but they may not always offer sufficient protection.

Although the prohibition of an organization's operation should be considered a last resort in response to its violations, the wording in the law does not specify that the Supreme Court has the discretion to issue a different decision. As a result, it appears that the court is expected to automatically rule in favor of prohibition.

The law also uses the concept of “financing extremism,” which is defined as “the activities, focused on enabling the existence and functioning, of an extremist organization, departure of persons abroad or movement across the territory of Uzbekistan to engage in extremist activities, directly or indirectly providing or raising any funds, resources, and other services for extremist organizations or persons, facilitating or participating in extremist activities.” This wording, without specifying the deliberate intent of these actions to commit extremist crimes, allows for sanctions against a wide range of individuals, for example, those who inadvertently provide any services to individuals whom the authorities consider extremists. However, neither the Administrative Responsibility Code nor the Criminal Code of Uzbekistan currently contain provisions for punishing the financing of extremism; there is only a criminal article addressing the financing of terrorism.

Furthermore, funds, financial transactions, and assets belonging to individuals “involved in extremist activities” are subject to immediate freezing, without prior warning or notification. The law does not clarify whether this applies solely to individuals who have been convicted of extremist crimes or includes individuals whom law enforcement agencies merely suspect of such activities. The law does not outline the possibility of appealing these measures.

Procedure for recognizing materials as extremist

According to the Law “On Countering Extremism,” extremist material is defined as “document or any other information in any form intended for dissemination, which calls for extremist activities or substantiating or publicly justifying the need for these activities.” Importing, producing, storing, distributing, and displaying extremist materials are prohibited.

The law stipulates that extremist materials must be destroyed or deleted according to the stipulated procedures. It does not provide any exceptions, even though there are cases where journalists, lawyers, researchers, and experts may require access to such materials for legitimate purposes.

Materials are determined as extremist by the Supreme Court, and their list is made public on the open data portal by the Ministry of Justice. However, the information available on this portal is up to date only until the year 2021. The most recent version of this list was published by the Committee for Religious Affairs of Uzbekistan. This committee conducts mandatory assessments of all religious materials to identify any extremist content. Only after such an assessment can these materials be imported into the country, produced, or distributed. The Committee reported that, in cooperation with the State Security Service, the Ministry of Internal Affairs, and the Agency of Information and Mass Communications, it actively searches for radical religious content online. As of 17 May 2023, their efforts

have resulted in the Supreme Court issuing 60 decisions, leading to the classification of over 500 materials as radical.²⁷ These materials encompassed Telegram and YouTube channels, social media profiles on platforms such as Facebook, Instagram, TikTok, and Odnoklassniki, websites, books, and nasheeds (Islamic songs).

According to the law, “in case it is impossible to destroy or delete extremist materials” that have been published in the media or on the internet, access to these materials is restricted. Blocking access to these materials on the internet is done based on a decision by the Supreme Court.

Furthermore, it is prohibited to import, produce, store, display, or distribute the attributes and symbols of extremist organizations, and they are subject to unconditional destruction or removal. Access to them online is blocked regardless of the context in which they are used.

Sanctions for disseminating any materials are not directly linked to the definition of extremist materials in the law and are instead covered by several different provisions. This can lead to legal uncertainty and unpredictability in their enforcement.

- Article 184-2 of the Administrative Responsibility Code imposes fines with the confiscation of materials for unauthorized production, possession, unapproved import into Uzbekistan, intending to distribute or distributing religious materials.
- Article 184-3 of the Administrative Responsibility Code imposes fines or administrative arrests with the confiscation of materials for distributing content that propagates national, racial, ethnic, or religious enmity. Article 156 of the Criminal Code, among its other provisions, punishes with fines, corrective labor, restrictions, or imprisonment for up to three years the same actions committed after a prior imposition of an administrative penalty.

In April 2023, the blogger Khojiakbar Nosirov was placed under arrest for 15 days for his video post claiming that yogurts containing carmine were not halal. The Tashkent City Police Department explained the reason for imposing a penalty under Article 184-3 of the Administrative Responsibility Code by pointing out that, in Uzbekistan, it was not permissible to “interfere in citizens’ private lives by introducing a religious aspect into various matters on one’s own initiative.” According to the Police Department, distributing religious materials without obtaining a religious expert opinion is also prohibited.

- Article 244-1 of the Criminal Code addresses offenses such as production or possession with the intent to distribute of materials containing ideas of

²⁷ Regarding extremist and terrorist content. Din ishlari bo'yicha qo'mita. Telegram, 19 May 2023 (<https://t.me/DinQumita/3231>); Official Notification. Din ishlari bo'yicha qo'mita. Telegram, 2023, May 19 (<https://t.me/DinQumita/3233>).

religious extremism, separatism, and fundamentalism, calls for riots, forcible displacement of citizens, or the intention to create panic among the population, as well as manufacturing, possession with the intent to distribute, or displaying of attributes or symbols of religious extremist or terrorist organizations. The prescribed penalties include fines, corrective labor, and imprisonment for up to three years. However, if these activities are additionally aimed at using religion to disrupt civil harmony, spread defamatory destabilizing information, or commit other acts violating societal norms and public safety, the maximum penalty increases to five years of imprisonment. This part of article also covers dissemination or display of attributes and symbols of religious extremist or terrorist organizations. If these activities involve the use of mass media or the internet, the maximum penalty further rises to eight years of imprisonment.

Article 244-1 of the Criminal Code is evidently used more frequently than other provisions within the Code to prosecute individuals for expressing dissenting views, both of a political and religious nature:

Opposition blogger Fazilhoja Arifhojaev, who focuses on religious subjects, was arrested in June 2021 following a dispute with Tashkent's pro-government religious blogger Abror Abduazimov. The dispute arose from a Facebook post in which Arifhojaev criticized Abduazimov for congratulating non-Muslims on their religious holidays. In January 2022, Arifhojaev was sentenced to seven and a half years in a maximum-security penal colony for disseminating materials promoting religious fundamentalism.

In May 2023, a 20-year-old economics student, Jahongir Ulugmurodov, was sentenced to three years of imprisonment for sharing a nasheed (non-violent religious song) in a Telegram chat with a few classmates. The nasheed did not contain calls for violence but was deemed to be "saturated with fundamentalist ideas" by the Committee for Religious Affairs. The verdict was appealed, and in the cassation, Ulugmurodov's punishment was reduced to a restriction of freedom.

Sanctions against protesters in the Republic of Karakalpakstan

Particular attention should be given to the criminal cases related to participation in the disturbances that occurred after the Karakalpak protests in Nukus in July 2022. These cases are noteworthy because multiple "extremist" charges were filed against the individuals involved. According to media reports, cases against 171 individuals proceeded to trial.

In May 2023, Amanbai Sagidullaev, the leader of the Alga Karakalpakstan movement residing in Norway, was sentenced in absentia to 18 years of imprisonment. He faced

charges under Article 244 for involvement in mass riots and incitement to them, Article 244-1 for disseminating separatist materials, Article 158 for assaulting the president, and Article 159 for making public calls for unconstitutional violation of the country's territorial integrity and the seizure of power. Nietbai Orazbaev, a representative of the Karakalpak diaspora in Kazakhstan, also received a 12-year imprisonment sentence in absentia.

The same articles, used in various combinations with each other and other provisions of the Criminal Code, were applied in the case of the first group, which consisted of 22 defendants and was sentenced by the Bukhara Regional Court back in January. Dauletmurat Tajimuratov, a lawyer from the law firm El Khizmetinde and former editor-in-chief of the newspaper with the same name, was identified by the authorities as the main organizer of the unrest and sentenced to 16 years of imprisonment by the court. Fifteen individuals received prison sentences ranging from three to eight years, and six others were given various terms of restricted freedom. Among them was Lolagul Qallykhanova, a journalist and administrator of the online media outlet Mekan, who received an eight-year restriction of freedom sentence. In June, the appellate court reduced the sentences for six of the convicted individuals; eight offenders saw their terms of incarceration replaced with restriction of freedom. Tajimuratov, who did not admit guilt, retained his original sentence.

The trial of the second group of individuals, totaling 39 people and arrested after the protests, concluded in March 2023. Twenty-eight defendants were sentenced to imprisonment ranging from 5 to 11 years, particularly under Articles 244 and 244-1 of the Criminal Code. Another eleven people received five-year sentences of restricted freedom. On appeal, this verdict was partially softened, with 16 of the convicted individuals seeing reduced sentences, while five others had their imprisonment replaced with restriction of freedom.

Special chapter: the Transnistrian (Pridnestrovie) region, Republic of Moldova

As mentioned in the Introduction, this special chapter deals with the situation in the Transnistrian region of the Republic of Moldova, which in practice is controlled by the Transnistrian authorities. The region has legislative and law enforcement systems that are not controlled by the government in Chisinau. This report considers the situation in Transnistria as a separate case, the authors do not question the territorial integrity of Moldova.

The legislation related to countering extremism started to take shape in the early 2000s, and in 2007, its core elements were officially integrated into the local legal system with the adoption of the Law “On Countering Extremist Activities.”²⁸

This framework law introduced the definition of “extremist activity (extremism),” which, while similar, did not entirely align with the corresponding definition in the Russian Law “On Countering Extremist Activities,” which served as a reference for Transnistrian lawmakers.

Certainly, this definition covers a wider range of aspects related to various forms of anti-government activities, some of which are framed differently. The definition of extremism includes seizing or assuming governmental powers, establishing illegal armed groups, undermining the security of Transnistria, targeting the life of a state or public official with the aim of halting their political activities or seeking revenge for such activities, and publicly defaming an individual holding a government position by accusing them of engaging in extremist activities, provided that the defamation is proven in court. It’s important to note that extremist activity not only encompasses the commission, organization, preparation, and financing of specific actions but also the planning, incitement, justification, or endorsement of such actions. The definition of extremism in Transnistrian legislation has a core drawback shared with similar provisions in other regional states – the ambiguity of its wording, which allows for broad interpretations.

In the subsequent years, anti-extremist legislation in Transnistria underwent only minor changes; then in 2020, Transnistria adopted the Strategy for Countering Extremism for 2020–2026. The document noted that external events, which brought the issue of extremism to the forefront, included waves of takeovers in several Arab countries and political instability in some Eastern European countries. The strategy was largely built on similar documents adopted in the Russian Federation, Kazakhstan, and Belarus, with the overwhelming majority of the content borrowed from them. A unique section was Chapter 5, which focused on the fundamentals of organizing counter-extremism efforts.

²⁸ See TMR Law No. 261-Z-IV “On Countering Extremist Activities”, 27 July 2007.

This chapter outlined the key principles of such activities, including respect for human rights, legality, transparency, the priority of Transnistria's security, prevention of extremist activities, collaboration with various organizations and citizens for this purpose, and the inevitability of punishment for extremism. The framework Law "On Countering Extremist Activities", the Strategy for Countering Extremism for 2020–2026, which reflects the declared motivation and rationale of the authorities regarding these actions, along with a number of corresponding provisions in the local criminal and administrative codes, constitute Transnistria's anti-extremist legislation.

Procedure for recognizing materials as extremist

The Transnistrian law "On Countering Extremist Activities" aims to prevent the dissemination of (a) official materials from prohibited extremist organizations, (b) materials authored by individuals "convicted in accordance with international legal acts for crimes against peace and humanity" and exhibiting signs of "extremism," and (c) any other materials containing indications of "extremism" as defined in the law.

The task of determining whether materials exhibit signs of extremism falls under the jurisdiction of the Transnistrian court located where such materials are discovered, based on a statement submitted by the prosecutor or their deputies. In practice, court decisions rely on the results of linguistic examinations conducted by the Department of Judicial Expertise within the Ministry of Internal Affairs of Transnistria. Materials recognized as extremist are included in a unified state list, which is periodically published through media outlets. Individuals found guilty of producing, distributing, or storing such materials with the intent of further dissemination are subject to administrative or criminal liability.

Liability of organizations and media outlets

If any signs of extremism are discovered in materials published by a media outlet, a Prosecutor's Office can issue a warning against it. In the event that this warning is not challenged in court, or if violations are not corrected or occur again within a year, the media outlet's operations can be terminated by court decision. Additionally, the court has the authority to suspend the release or distribution of printed or audiovisual materials containing extremist content.

The regulations applicable to civic or religious organizations closely resemble those outlined for media outlets. They can also be dissolved or prohibited through a court order, either initiated by the Prosecutor's Office of Transnistria or without prior warning, for engaging in extremist activities that "result in the violation of human and citizen rights and freedoms, harm to individuals' health, the environment, public order, public safety, property, legitimate economic interests of individuals and (or) legal entities, society, or the state, or pose a credible threat of such harm."

Administrative and criminal legislation

The Code of Administrative Offenses of Transnistria contains two articles related to the dissemination of extremist materials. The sanctions for these offenses range from fines of several tens of euros and confiscation of illegal products and equipment to fines of €1000, 15 days of detention, or the suspension of a legal entity's operations for up to 90 days.

- Article 20.4 of the Code of Administrative Offenses imposes liability with confiscation for displaying prohibited symbols or attributes, as well as producing, selling, or acquiring them with the intent to sell. This includes symbols of extremist organizations, Nazi symbols, or symbols similar to them “to the point of confusion,” as well as other symbols prohibited by law.
- Article 20.27 of the Code of Administrative Offenses, in turn, establishes sanctions for the distribution of materials that are already included in the list of extremist materials, as well as their production and storage with the intent of further distribution.

The Criminal Code of Transnistria contains a number of provisions that penalize extremist activities, many of which are similar to those present in the legal frameworks of Russia, Kazakhstan, and Belarus, with which Transnistria aligns. These articles stipulate various types of sanctions, including fines of several thousand euros, imprisonment for up to 10 years, and, in some cases, prohibition on holding specific positions. Correctional labor is referenced in several articles as well.

- Article 276 of the Criminal Code on public calls for extremist activities.
- Article 278 of the Criminal Code on incitement of national, racial, or religious enmity, humiliation of national dignity, and propaganda of superiority or inferiority of individuals based on their religion, nationality, or race.
- Article 278-1 of the Criminal Code on organizing the activities of an extremist association, which involves creating a group of individuals for the preparation or commission of crimes motivated by hatred, as stipulated by the Transnistrian Criminal Code²⁹ or leading such a group, or gathering organizers of such associations “for the purpose of developing strategies and (or)

²⁹ “Obstruction of the right to freedom of conscience and religion,” “Obstruction of a meeting, rally, demonstration, march, picketing or participation in them,” “Hooliganism,” “Vandalism,” “Destruction or damage to immovable cultural heritage objects, natural complexes or objects, destruction or damage to immovable objects of cultural heritage, natural complexes or objects under state protection, movable objects of cultural heritage, as well as identified objects of cultural heritage,” “Desecration of dead bodies and their burial places,” “Public calls for extremist activities,” “Incitement to national, racial or religious hatred.”

conditions for committing extremist crimes.” It also prescribes sanctions for involving others in such communities.

- Article 278-2 of the Criminal Code on the organization of activities of an extremist organization, i.e. religious, civic, or other types of groups that have been officially recognized as extremist by the court, with the exception of those recognized as terrorist organizations, and on participation in such organizations and the involvement of others into them. An individual who voluntarily ceases their involvement in an extremist group or organization after it has been officially recognized as such, and who has not committed any other crimes, will not be held liable.
- Article 278-3 of the Criminal Code, introduced in July 2016, is unique to the region and imposes sanctions for “denying the positive role of the Russian peacekeeping mission” in Transnistria, i.e. engaging in public actions or making statements that demonstrate “explicit disrespect” towards the Russian peacekeeping presence and “aim to distort” its “positive role,” or “diminish Russia’s contributions to maintaining peace, security, and stability” in Transnistria.
- Article 316 of the Criminal Code penalizes the public insult of a government official while performing their official duties or in connection with the performance of those duties.
- Article 316-1 of the Criminal Code, introduced in March 2019, establishes liability for publicly insulting the leader of Transnistria.
- Article 357 of the Criminal Code penalizes the public denial of facts or approval of crimes established by the International Military Tribunal “for the trial and punishment of the major war criminals of the European Axis countries.” It also prohibits the public “dissemination of knowingly false information about the activities of the USSR during the Second World War, involving accusations of crimes established by” that judgment, i.e., accusing the USSR of crimes analogous to those of the Nazi regime, including, as it seems, its responsibility for the outbreak of the Second World War. Additionally, this article imposes penalties for the “public glorification of fascism.” In 2021, it was amended to include sanctions for “disseminating information expressing clear disrespect to society about the days of military glory and memorable dates of the USSR” and Transnistria, as well as “related to the defense of the Fatherland, or desecration of symbols of military glory of the USSR and PMR (Pridnestrovian Moldavian Republic), insults against the memory of defenders of the Fatherland, or the abasement of honor and dignity of a WWII veteran.”

In corresponding with the Law “On Countering Extremist Activities”, the anti-extremist articles of the Criminal Code of Transnistria also inherit its weaknesses. Specifically, this pertains to the ambiguity of the terminology used in these articles and the absence of a link between the actions listed within said articles and the commission, organization or propaganda of violence as a qualifying criterion for liability. The vagueness of the terminology means that the enforcement of these provisions is heavily dependent on the stance of the government-affiliated body responsible for providing expert witnesses – the Department of Judicial Expertise within the Ministry of Internal Affairs of Transnistria.

Similar issues can also be observed in other articles concerning public speech, such as those related to insulting government officials and the leader of Transnistria, which are not directly tied to anti-extremist legislation.

As a result, the authorities have significant discretion in terms of arbitrary interference with the right to freedom of information and association.

Enforcement dynamic

The Transnistrian judicial system is a predominantly closed structure, characterized by significantly limited access to courtrooms, selective publication of court decisions, incomplete responses to information requests that fail to provide a comprehensive view of the situation, and a widespread practice of classifying court case information. At the same time, civil society and media in the region are underdeveloped, with few organizations dedicated to safeguarding political rights, all major media outlets maintaining a pro-government stance, and limited resources available for independent media. As a result, because of the absence of essential statistical data and the limited resources available for the systematic monitoring of the implementation of anti-extremist legislation and related regulations, the evaluation of law enforcement trends and dynamics can only be conducted on a case-by-case basis, relying on individual incidents.³⁰

One of the earliest publicly documented instances of employing anti-extremist legislation as a tool for exerting pressure occurred in March 2015 with the arrest of Serghei Ilchenko, a local publicist and critic of the authorities. He faced charges of publishing calls for armed rebellion and resistance against Russia under Article 276 of the Criminal Code; however, he was later released under an amnesty program.

The first publicly known individuals to be convicted for insulting the leader of Transnistria under Article 316-1 shortly after its introduction into the Criminal Code were Tatiana Belova and Serghei Mirovich, a retired couple. They were arrested in August 2019

³⁰ See Human Rights Situation Review in Transnistria 2017–2021 // Information and Human Rights Center “Apriori,” 2021 (<https://apriori-center.org/obzor-hr-apriori-2017-2021/>).

on charges related to posting content in a Telegram channel that, according to the investigation, contained offensive expressions targeting Vadim Krasnoselsky. Both received three-year prison sentences, but Belova was released from prison early.

Subsequently, criminal cases were initiated against several other individuals under the aforementioned articles:

Charges were brought under Article 276 of the Criminal Code against:

- 22-year-old Larisa Calic for publishing a documentary book about the Transnistrian army titled *God Molodosti* [The Youth Year.] She left Transnistria.
- Alexander Samoniy, a member of the Tiraspol City Council for the Communist Party, for posts on Facebook criticizing the actions of the authorities and personally Vadim Krasnoselsky which, according to the investigation, Samonii had made under someone else's name. Samonii left Transnistria, had his parliamentary immunity revoked, and was put on a wanted list.
- Boris Babaian, the administrator of a local Viber public chat, for posting messages and articles that were deemed to incite mass disorder and extremist activities. He spent a year under arrest, and eventually, the court imposed a fine on him.
- Ghenadie Ciorba, a former government official who has since become an opposition activist, for his online postings. He was arrested and subsequently sentenced to a total of three years and three months of imprisonment, in aggregate of Articles 276 and 316-1 of the Criminal Code. After spending 13 months in custody, Ciorba's penalty was commuted to a suspended sentence.
- Charges were brought against retired individual Mihail Ermurachi under Articles 278, 278-3, and 316-1 of the Criminal Code. He was among the first individuals to be charged under Article 278-3 for denying the positive role of Russian peacekeepers. However, he was ultimately found guilty and fined under Article 316-1 for using the words "mercenary" and "puppet" when referring to the portrait of the Transnistrian leader in the school director's office.
- Pavel Dogari, a hospital groundskeeper, was charged under Article 278-3 of the Criminal Code for a Facebook post, which law enforcement agencies viewed as denying the positive role of Russian peacekeeping forces and inciting ethnic discord against Russians. Dogari became the second known individual to face charges under this article and eventually left Transnistria.

- Stand-up comedian Roman Iamboglo was fined under Article 316 of the Criminal Code for making a joke about the then-Minister of Internal Affairs.
- The editor of a local communist newspaper, Nadezhda Bondarenko, was charged under Articles 316 and 316-1 of the Criminal Code for publishing an article in a newspaper containing an appeal from the leader of the local Communist Party, the now-deceased Oleg Horjan, who was then in prison. The publication was alleged to contain insults towards the authorities and the leader of Transnistria. There is no available information regarding whether this case proceeded to court, but it seems that the legal proceedings might have been terminated.

All the instances of criminal charges listed above were recorded in 2020, a year marked by an unusually high number of extremism-related cases. The exact reasons behind such heightened activity in 2020 remain unknown, but it is probable that they contributed to the adoption of the Strategy for Countering Extremism in March 2020.

In the subsequent two years, there were only a few known cases of the application of anti-extremist articles and articles related to insulting authorities. The report from the Transnistrian Judicial Department at the Supreme Court of Transnistria showed similarly low figures in response to a request for statistical data. However, it's important to highlight that the Transnistrian authorities tend to classify the information pertaining to court cases related to anti-extremist laws, and there are reasons to suspect that such cases were not fully reflected in the statistics we obtained.

Over the past few years, the most notable criminal case was that of Viktor Pleshkanov, an active social media user. In the summer of 2022, he was sentenced to three years and two months of imprisonment under Article 276 of the Criminal Code, presumably for a Facebook comment that contained a pro-Ukrainian slogan and a wish for an end to Transnistria as an independent entity.

In June 2022, a verdict was issued under the same Article 276 of the Criminal Code to D.V. Kumatrenko, sentencing him to three years of imprisonment. According to the text of the verdict, Kumatrenko, "advocating the ideology of the illegitimacy of the existence of the Pridnestrovian Moldavian Republic and a number of other states on the territory of the former USSR," conspired with an individual named V.V. Taratenko to publish several materials on two YouTube channels related to the Soviet Road Patrol Service. These materials aimed at "propagating the aforementioned ideology by inciting the population of the Pridnestrovian Moldavian Republic to obstruct the lawful activities of state authorities, overthrow the constitutional order, and engage in other forms of extremist activities." Taratenko was convicted for disseminating similar

materials earlier, in February of the same year, but there is no information about the exact penalty he received.

The case of an eighteen-year-old resident of Tiraspol is also noteworthy. In 2023, he was charged under Article 205 of the Criminal Code for the mass dissemination of false messages about explosives planted in schools, despite the fact that at the time of committing this offense a year earlier, he was still a minor. According to the Investigative Committee, these messages also included “words and expressions clearly promoting national hostility,” resulting in charges under Article 276 of the Criminal Code. This particular case garnered public attention and stands out as one of the few extremism cases involving an individual who wasn’t high profile.

Another significant development in 2023 was the expansion of the list of extremist materials. Previously, this list had only included seven brochures from the Jehovah’s Witnesses. However, in 2023, it was expanded to encompass religious materials and two online groups, one on Viber and one on Facebook, associated with the aforementioned convicted offenders, Boris Babaian and Ghenadie Ciorba.

Hence, in Transnistria, there have been only a limited number of known cases where anti-extremist laws have been applied, and these cases are primarily related to public speech. Additionally, regulations concerning insults against authorities are also enforced. These cases often elicit significant public outcry due to valid concerns about unwarranted government interference in freedom of expression. While society has limited means to counter such practices, the expansion and strengthening of anti-extremist legislation provide new opportunities for its enforcement and introduce additional risks for Transnistria’s residents, further stifling public discourse.

Key trends in legislation and law enforcement

Between 2020 and 2023, efforts aimed at countering extremism and terrorism in the region extended beyond addressing tangible and existing threats, such those posed by the operations conducted by armed terrorist organizations or the manifestation of violent xenophobia. Unfortunately, national authorities continued to employ these measures as tools for societal control and the suppression of civic engagement that cannot be classified as unconstitutional, and in several countries, this legal enforcement has significantly intensified. However, it is essential to note that anti-extremism and counter-terrorism measures constitute merely one facet of an expanding and broadening repressive framework. Over recent years, various stringent restrictions on public events and the activities of NGOs have been introduced under various pretexts, along with laws prohibiting the dissemination of “inaccurate information” tightening control over the internet and increasing oversight of religious associations and their activities.

Some notable negative trends in anti-extremism and counter-terrorism legislation and enforcement include the following:

- This legislation is used against participants in public events and those encouraging such participation. For example, in Belarus, this includes incorporating actions, such as calls for illegal public events that infringe upon “independence, territorial integrity, sovereignty, the foundations of the constitutional system or public security,” into the framework law on extremism, and increasing the severity of the corresponding articles in the Belarusian Criminal Code. In Kazakhstan, this involves adding a provision to the Law “On Countering Terrorism” that permits anti-terrorist operations in situations of mass disorder and applying articles on committing acts of terrorism and propagating terrorism to participants in mass protests of January 2022. In Russia, calls for participation in unauthorized public events have become one of the grounds for recognizing organizations affiliated with Alexei Navalny as extremist.
- Increasingly, criticism of government actions or calls for a regime change; (without assessing the aggressiveness of such calls or the likelihood of their implementation) is being treated as incitement to terrorism or extremism, as undermining the constitutional order, or harming national security. This trend is noticeable in Russia, Belarus, Tajikistan, and Uzbekistan.
- In Kazakhstan and Uzbekistan, activists who did not advocate for violent actions to achieve the separation of specific territories are nevertheless charged under criminal articles related to incitement to separatism.

- Provisions on the discrediting of the state, government actions, or military operations have been incorporated into legal frameworks and are enforced in Belarus, Russia, and Transnistria. In Russia, a criminal article on the disseminating knowingly false information about the use of the Russian armed forces and actions of government officials abroad has been introduced and is actively enforced, often with charges filed for inciting hatred towards government representatives or the military. Meanwhile, in Kazakhstan, a previously enacted provision on the dissemination of knowingly false information that poses a threat to society, the state, or public order continues to be employed against activists.
- There is a growing trend of utilizing provisions on inciting hatred (enmity, discord, humiliation of human dignity) to shield government representatives, particularly law enforcement agencies, from severe criticism. These laws often specify protected characteristics based on membership in particular social groups. This legal practice is observed in Belarus and Russia.
- Laws on insult and defamation of high authorities are increasingly introduced along with active enforcement of the corresponding criminal articles. The application of these provisions has been reported in Belarus, Transnistria, and Uzbekistan.
- In Russia, the article on vandalism motivated by ideology or political hatred, is increasingly employed to impose unjustified or excessively severe penalties. This also extends to a segment of the article on the rehabilitation of Nazism, which penalizes acts such as the desecration of symbols of military glory and insults to the memory of defenders of the Fatherland. Similar actions have become punishable under the law on the rehabilitation of Nazism in Transnistria. Belarus has also enacted legislation concerning the rehabilitation of Nazism, featuring stringent sanctions.
- In Russia, opposition organizations are increasingly facing bans under the label of extremism. “In Belarus, the label of ‘extremist formations’ has been applied not only to political associations but also to independent media outlets and human rights organizations.” There have even been instances where media outlets were declared as terrorist organizations.
- In Belarus, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, criminal articles on affiliation with such organizations are consistently applied. Charges under these provisions are frequently filed not necessarily based on the commission of any violent or other serious crimes that pose significant public threats, but rather on information about involvement in a prohibited organization or

the dissemination of related materials. Consequently, convicted individuals often receive harsh sentences, typically involving lengthy periods of imprisonment. This issue remains relevant and represents one of the most significant problems in the enforcement of extremism and terrorism-related legislations.

- Another persistent issue, particularly prominent in certain Central Asian countries, is the criminal prosecution of individuals for disseminating materials that often do not fall into any prohibited lists. Courts fully rely on expert opinions provided by state institutions and conclude that these materials are associated with banned organizations or contain content that is considered anti-state or divisive. Notably, in Kyrgyzstan and Uzbekistan, a substantial number of relevant criminal cases relate to the distribution of such materials.
- In some countries, the prohibition of specific organizations results in sanctions against individuals for displaying their symbols and attributes. This trend is most prominent in Russia and Belarus, and its prevalence in these countries is increasing.
- Throughout the region, legal frameworks impose a range of restrictions on individuals suspected by authorities of involvement in terrorist or extremist activities, even when they are mere suspects. Furthermore, the number of these restrictions is increasing. Various forms of additional punishments are also stipulated for convicted offenders, including restriction of freedom or administrative supervision after serving their primary sentences. This trend is evident in Russia, Belarus, Kazakhstan, and Uzbekistan. Russia actively employs measures such as revoking acquired citizenship for individuals convicted of terrorism or extremism-related crimes, and Belarus has introduced a similar provision. In Kazakhstan, engaging in terrorist activities can even result in the revocation of citizenship acquired by birthright.
- The legislations in Belarus, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan encompass a wide range of grounds for blocking internet pages, with extremism and terrorism being just a part of them. Additionally, during periods of mass protests in Belarus, Kazakhstan, Tajikistan, and Uzbekistan, authorities implemented internet shutdowns, effectively disabling internet access over large territories. Events of recent years in Russia and Belarus have resulted in particularly extensive blocking of independent internet resources, often based on decisions categorizing them as extremist, or for spreading inaccurate or discrediting information about authorities or the military. In Russia, Meta, the company that operates Facebook and Instagram, was declared extremist, leading to restrictions on access to these platforms.

Recommendations

We believe it is crucial to bring the legislation and practices in combating terrorism and extremism in our countries in compliance with international human rights standards. We observe that the regulatory frameworks and practices in various countries not only fail to progress toward this goal but, regrettably, often appear to be moving further away from it.

We advocate for defining extremism, as well as terrorism, as a set of actions inherently connected to the use of violence. While we acknowledge that this interpretation may not be universally agreed upon, we emphasize the importance of clear legal definitions that do not rely on open-ended lists of protected groups or subjects, inciting hatred towards which is punishable. It's crucial to clearly differentiate between measures aimed at countering terrorism, countering violent extremism, and addressing other actions that national laws may classify as extremism. This differentiation should also extend to the severity of sanctions applied.

In any situation of international armed conflict, crimes against civilian populations and other violations of the laws and customs of war should be categorized as such and not as terrorist or extremist offenses.

The expression of various political, and especially religious viewpoints regarding the desirable societal structure should not be restricted merely because these perspectives are politically and ethically unacceptable to the majority of society. This includes opinions about the structure and policies of the state, its borders, approaches to managing cultural diversity, family matters, and more. Individuals or groups who express those opinions should only be punished when they employ unlawful methods, especially violent ones, to achieve their goals, or when they call for the use of such methods (including incitement to hatred based on ethnic, religious, or similar criteria).

Consequently, provisions criminalizing other speech on social, religious, and political topics should be repealed. This includes criticism of government authorities or political opponents (cases involving defamation could be addressed through civil proceedings), engaging in religious, philosophical, historical debates, or discussing art, except in cases of incitement to hatred, calls for insurrection, violence, and the like.

Incitement to hatred should only be criminalized based on a clearly defined list of group attributes and only for cases that involve incitement to confrontation, discrimination, and violence (as outlined in Article 20(2) of the ICCPR). Formulations broader than those specified in the ICCPR should be removed. For example, "humiliation of dignity" and "insult to feelings" should be subject to civil law rather than criminal law.

When considering whether to impose sanctions, particularly of a criminal nature, for public statements, it is essential to assess the level of public danger they caused, based on internationally developed tests for evaluating the public danger of speech approved by the United Nations.³¹ States should dedicate greater efforts to prevent the incitement of hatred and other activities related to terrorism and extremism.

Investigations into such cases may involve conducting expert examinations. However, these should take place only in cases when comprehending the statement in question requires specialized knowledge beyond common understanding, such as is the case with many religious texts. The type of the examination should be selected based on the specific additional knowledge needed. The expert should not address legal questions, even indirectly.

The mechanism of prohibiting “information materials” along with subsequent penalties for their dissemination *per se* should be repealed, given that, with widespread internet availability, such prohibitions fail to effectively curtail socially harmful propaganda and often lack clear definitions, thereby significantly increasing the risk of excessive or arbitrary penalties. A first step should involve repealing any legal consequences for possessing such materials in countries where such regulations exist.

Blocking access to materials on the internet should exclusively apply to content that violates the law (once the legislation is brought into compliance with the recommendations outlined in this report). The illegality of materials should either be determined by a separate court decision or declared by an executive authority based on the material being deemed illegal in the context of a previously reviewed criminal case.

Additional limitations beyond the primary punishment (pertaining to civic rights, access to financial instruments, etc.) should only be imposed on individuals convicted of terrorist or extremist offenses through a judicial process, should be tailored to each specific offense, applied for a limited duration, and within reasonable limits that do not hinder the necessary (re)socialization of the convicted person.

Public associations and media outlets should only be prohibited by a court for extremist activities based on legally effective judgments against their participants, provided that this activity was not an isolated incident. Criminal prosecution for the continued activities of

³¹ See: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/66/290), UN, 2011, August 10; Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin (A/16/51), Paragraphs 29–32, UN, 2010, December 22; Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, adopted on October 5, 2012 (A/HRC/22/17/Add.4, Appendix), United Nations, 11 January 2013.

such associations should only be considered if the actions in question were connected to or aimed at committing crimes of extremist or terrorist nature.

The prohibition of a public association – as a measure affecting a wide range of individuals, aside from those proven to have committed crimes – should only be imposed based on genuinely serious claims against the association. We emphasize that a reasonable self-limitation by states would be to consider as extremist only activities directly linked to violence. In this scenario, restrictions on associations, as well as charges related to deliberate financing or support of extremist activities, would only arise in connection with a real threat of violence affecting public safety. However, if legislation maintains a broader definition of extremism, it should narrow down the list of corresponding crimes that lead to the prohibition of an association and to criminal liability for its financial support or endorsement.

In cases where a religious association is banned, the state should not hinder former members of this association from exercising their right to individual and collective freedom of religion.

Prohibitions on the public display of specific symbols and penalties for such actions should be permissible solely in instances where these actions were intended to incite hatred or other forms of socially dangerous provocations, or to promote organizations that have been banned for engaging in terrorist or extremist activities. In any case, these actions should only be treated as administrative offenses rather than criminal offenses.

Investigations and trials related to cases classified as terrorist or extremist should be conducted while preserving the procedural rights of the defendants, including trial transparency (with generally accepted exceptions). Imposing additional restrictions on the rights of the defendants in such cases, including the use of torture, is unacceptable.

As national legislation is brought into compliance with international standards, previously issued court decisions must be reviewed in order to secure the release from unlawful or excessive penalties of already convicted citizens, primarily those who are deprived of their liberty.

