



RIGHT OF DEFENCE

№ 1 (JUANURE – MARCH)

2015

The quarterly electronic newsletter dedicated to the situation in Kazakhstan in relation to those who defends the rights of other members of society.

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OVERALL SITUATION

Early presidential election

In February 14, 2015, at an anniversary session of the Board of Assembly of Kazakhstan's People, there was proposed to carry out early presidential election. So as for a long time it has been expected to carry out early presidential and parliamentary election, Kazakhstan's people were not surprised with such initiative. In February 25, Nazarbayev, the President of Republic of Kazakhstan, fixed the election date for April 26. In March 25, the Central Election Commission of Kazakhstan preliminary entitled the names of three candidates for the post as the President of the State and announced the start of election campaign. Along with those, the opposition (represented by the last saved National Social Democratic Party) refused to take a part in election, while as Communist Party's activity was frozen yet again at the end of December, 2014.

Yesenbek Ukteshbayev, a "Housing for People!" standard bearer (protection rights of persons who are borrowers of mortgage banks) as well as an activist of movement on

Social Reforms for Kazakhstan, and Ualikhan Kaisarov, the President of the Fund "Kenesary-Khan", two self-nominated candidates who can be referred to as disloyal to the authorities in power could not pass Kazakh language exams. As passing exams is absolutely unclear procedure, both unfortunates suspected of being set down by such a way.

According to preliminary data, Nursultan Nazarbayev won electors 97.7 % votes at the presidential election of Republic of Kazakhstan. At that voting turnout to early presidential election of Republic of Kazakhstan was more than 95% by official data.

However, OSCE/ODIHR observation mission published the interim report of numerous violations.

([http://www.osce.org/odihr/elections/kazakhstan/151341?](http://www.osce.org/odihr/elections/kazakhstan/151341?download=true)

[download=true](http://www.osce.org/odihr/elections/kazakhstan/151341?download=true)). This was told at the briefing after the day of voting.

Other news at the same time

In March 4, 2015, at the order of France's cassation court (supreme judicial authority of the State), there was adopted Mukhtar Ablyazov, ex-top manager of BTA Bank, to extradite to Russia or Ukraine. He was one of the most crucial critics of acting Kazakhstani regime and the major sponsor of opposition and of a range of editions closed by the authorities. The former banker is charged with a range of criminals including swindling, falsification of documents, abuse of power and stealing five milliard dollars. Kazakhstan's side also accuses Ablyazov of financial violation to the amount of over six milliard dollars. He can probably face up to 13 years of imprisonment with confiscation of property at his home. Ablyazov himself and his proponents say that his prosecution is politically motivated. Peter Salas, the advocate, reported that Mukhtar Ablyazov can appeal the decision on his extradition through the supreme administrative authority of France or through European Court of Human Rights.

In February 24, 2015, it has become known about Rakhat Aliyev, son-in-law of the President Nazarbayev, found out dead at the prison in Vienna (Austria). In recent time he was in opposition to the authorities

and disclosed much confidential information of "Akorda". Official version is suicide.

In March 12, 2015, the authority of Spain refused Kazakhstan to extradite Muratbek Ketebayev, one of a close companion of Mukhtar Ablyazov, an oppositionist and a former banker. The Ministry of Justice of Spain considered the documents sent by Kazakhstan side concerning extradition to Kazakhstan and decided not to bring them to the Court. The Prosecution Office did not object to that. The Judge ordered to close my case. Muratbek Ketebayev having a political refugee rank obtained in Poland since December, 2013 was held by Interpol request in Madrid in December 24 last year on the basis of warrant to his arrest issued by the court of Aktau city as of December 11, 2012. Kazakhstan authorities accuse him of being implicated into disorders in Zhanaozen and supposedly in preparation of terrorist act in Almaty city. The Court of Madrid authorized the arrest before and Ketebayev was put into the prison of the city, but even in January 15 this year the Court ordered to release him from the arrest and forbade him to leave Spain until the decision of his extradition would be made.

INNOVATIONS OF THE AUTHORITIES

As of January 1, 2015, there were entered several new codes into force: Criminal Code (CC), Code of Administrative Violations (CAV), Penal Execution Code (PEC) and Criminal Procedure Code (CPC) which given rise to unfavorable criticism from Kazakhstani experts and human rights advocates as well as abroad human rights organizations. Pursuant to new CC and CAV, there is increasing responsibilities for carrying out unauthorized peaceful meetings, responsibilities of leaders of nongovernmental organizations opposed to ordinary civilians. There are new obstacles for freedom of speech. (For instance, proliferation of rumors and also information from rumors are made equivalent to criminal offences.).

In January 14, 2015, the Majilis (the lower house) of the of the Parliament of the Republic of Kazakhstan approved the draft Law on "Children protection from information that causes damage for their health and growth" and also accompanying amendments package at the plenary meeting in the second reading. There is specified a meaning "net publication" and its statutory registration by the authorized state authority in the Law "Amendments to the certain Laws of Republic of Kazakhstan for issues on children protection from information that causes damage for their health and

growth". To register there is needed to mention due identification numbers, periodicity, subject, languages, extension area and others in the application, and to create a special block on output data in the site. At that there is no clear meaning about net publication in the Law. Also, a range of paragraphs of the draft Law forbid LGBT-information of any sorts if it could be reached by children. The Committee of the Senate submitted the draft Law to the Chamber for consideration. In February 19, the Senate approved this draft Law. At that recent variant of the draft Law is not available and the site of the Parliament does not give any information about that.

The new draft Law on NGO is continuing to arouse suspicion which was initiated by the community organization "Civil alliance of Kazakhstan" (CAK) in summer, 2014. According to the draft Law, Kazakhstani NGO will gain financing from a single state operator and its business sphere can be significantly limited. The order of the granting will be specified by the Ministry of culture and sport and it also will monitor, collect, process and analyze information on implementation of the state social order. It means in reality that NGO will oblige to provide officials with any information on their grants.



Release of political prisoners

In February 5, 2015, Maxat Dosmagambetov, an oil-industry worker, a prisoner of the case of Zhanaozen disorder, was early released on parole by the judgement of Aktau city court. Maxat Dosmagambetov is severely ill. He has got operated on cancerous growth. Recently, Maxat Dosmagambetov was permitted to serve a sentence out of the prison camp, housing at his relatives in Aktau city. But in March 19, the court of Aktau city judge Naryn Zharylkasynov and Kanat Zhusipbayev, two last former oil-industry workers still situated in the prison, to early release on parole which were sustained a conviction on “Zhanaozen case”.



Disabled persons rights UN Convention ratification

In January 21, 2015, the members of the Majilis of the Parliament of Kazakhstan considered and adopted the draft Law of Republic of Kazakhstan “Disabled persons rights Convention ratification” at the plenary meeting.



Visit of UN Special Rapporteur

From 19 to 27 January, 2015, Maina Kiai, the UN Special Rapporteur on peaceful meetings and associations rights, visited Kazakhstan. This is his first visit to this country in current of which he has met legislation and practice on providing civilian meetings and association rights. Maina Kiai, the UN Special Rapporteur, made tough statement regarding peaceful meetings and associations rights in Republic of Kazakhstan. Also, the Special Rapporteur was “in trouble” that the authorities of Kazakhstan applied surveillance to him and activists of civil community come up to the meeting in Mangistau region. (<http://freeassembly.net/rapporteurpressnews/statement-kazakhstan/>).

RENEWAL OF THE CASES OF POLITICAL PRISONERS AND POLLITICALLY OPPRESSED PERSONS

Vladimir Kozlov



caused by the meeting V.Kozlov with Maina Kiai, the UN Special Rapporteur, attended him at the prison camp.

Briefly: Vladimir Ivanovich Kozlov is a Kazakh journalist and politician who has been a leader of the democratic opposition in Kazakhstan and a candidate for his country's presidency. In 2012, he was the defendant of as it was described as "the first political trial in Kazakhstan." The US charged Kazakhstan with using its criminal-justice system "to silence a leading opposition voice." Kozlov, who was found guilty and is currently serving a prison sentence, has been designated by Amnesty International as a "prisoner of conscience."

In January 14, 2015, where Vladimir Kozlov, an (the leader of the banned nonregistered opposition party "Alga"), is serving a sentence at the prison camp in Zarechnyj village there was carried out a commission for a degree on characteristic attestation. The commission gave to V.Kozlov the first negative degree of characteristic despite positive characteristic given by the penitentiary and letter of reference of the college. Pursuant to these, the convicted prisoner cannot pretend for movement to easier regime of service a sentence or to penal settlement. It may be

([http://en.wikipedia.org/wiki/Vladimir_Kozlov_\(politician\)](http://en.wikipedia.org/wiki/Vladimir_Kozlov_(politician)))

Aron Atabek



colony with a strict regime. Moreover, the court cannot prove his participation in application of violence. By contrast, human rights organizations of Kazakhstan recognized him as a political prisoner.

In March 10, the Cassation Board of the court of Astana city granted Aron Atabek's claim in part at the court session. The Court granted the claims concerning "action or non-action of the Committee on penal system (CPS)". These are the demand to return copies and provide his relatives with information about his treatment. Aron Atabek, 62 years old poet and dissident, is serving a sentence due to charge with organization disorders in micro-district "Shanyrak" near to Almaty city in July, 2006 as a result of which a policeman died. In 2007, he was committed to 18 years of imprisonment in the

Briefly: Aron Atabek, dissident since USSR, poet, political prisoner imprisoned since 2006, who have served more than 8 years including 5 years in solitary confinement in punishment cells. He had been convicted for 2 years twice (in 2010 and 2012) and was sent to one of the most strict prisons in Kazakhstan – the prison of Arkalyk.

(<http://socialismkz.info/?p=12805>)

Vadim Kuramshin



In February 14, the penitentiary ES 164/4 which is containing a convicted human rights activist was paid an attention by a whole delegation of representatives of former Financial Police. The officers of state revenue department and among others its major expert – Kusainov, the chief investigator of the second body of SRD of SKR, introduced the political prisoner to a separate order of the investigator Serik Alzhanov where there is said to examine V.Kuramshin testimonially in case of investigation of the criminal case:

15310012100008 of SRD of Jambul region. The criminal charge was launched against

Kuanyshebekov Zh., the advocate, the dealer of the giving of the supposed bribe and Mukhtar Uderbayev, the paralegal of Kordai district, by the applications of which the human rights activist was charged with the criminal case and subsequently had to serve a sentence for 12 years.

Briefly: Vadim Kuramshin was arrested right after coming back from an OSCE conference in Warsaw in September 2012, during which he presented a speech on human rights violations in Kazakh prisons. He was sentenced to 12 years in prison on December 7, 2012 on charges of blackmailing the assistant of the district attorney. The verdict was upheld by the Court of Taraz on the 14th February 2013.

(<https://www.frontlinedefenders.org/ru/node/19674>)

Alexander Kharlamov



Alexandr Kharlamov, the human rights activist and journalist from Ridder city, is still under recognizance not to leave and his case on accusation of stirring religious strife (because of his atheistic message appeared to the net) still is not dismissed despite all the terms went away. Now, the Police of Ridder city says it can find his cases while A.Kharlamov is continuing to work as a human rights activist and to publish in regional editions.

Briefly: Alexander Kharlamov for a long period has been publishing his materials about the arbitrariness of police, local

officials and the courts in regard to the ordinary people, as a number of his publications were devoted to the revelations of corruption schemes involving city officials and city MPs. His articles were published in the independent regional newspaper «Flash!» and city newspaper "Ridder messenger." However, finding no grounds for prosecution of the journalist for his work, the authorities decided to use the rare article of the Criminal Code for "inciting of religious hatred".

(<http://en.rsf.org/kazakhstan-journalist-still-facing-up-to-15-07-2013,44935.html>)

Yevgenij Tankov



In March 18, Ye.Tankov was refused to change a part of serving a sentence to milder punishment. Ye.Tankov and his advocate intend to request for appeal in the nearest time. In July 24, 2014, Yevgenij Tankov was sustained a conviction of assault on the judge for three years of imprisonment. He was convicted by article 341 "Threat or abuse concerning judgment" and 342 "Disregard of Court".

Briefly: On 24 July 2014, a district court in the city of Karaganda sentenced lawyer Yevgeniy Tankov, who is well-known for his human rights

activities, to three years in prison for showing disrespect to a judge and committing violent acts in relation to a representative of the authorities. The case against him was opened following an incident during the trial in a case he was working on in March 2014. During that trial, he invited the judge to participate in a "fly swatter duel" and, according to the law enforcement authorities, hit the judge several times with a plastic fly swatter. Tankov described the incident as an art act and denied that he threatened or used violence against the judge. Civil society representatives found the sentence against him unfair and believe that it was motivated by his professional and civic activities, including his non-traditional and creative tactics in court.

(<http://tankov.jimdo.com/>)

Incidents with human rights activists, public organizations, independent media as of January to March, 2015

At the beginning of 2015, it has become known that in December 25 there was delayed activity of the Communist Party by the decision of the particularized economic inter-district court in Astana city without presence of the representatives of the Communist Party for the period of months with its possible fully liquidation. The principals of the Central Committee of the Communist Party of Kazakhstan have just known about it in January 10 when this has already entered into legal force without rights and possibilities for appeal. There was written in the court report that tipstaff could not serve the defendant the summons and even noticed that in the act. However, no one member, being in the south capital, of Communist Party of Kazakhstan even was not aware about passed proceedings. This is the third delay of activity of CPK. Now, the authorities referred to the communist themselves required to close CPK due to press-conferences and applications. In early October, 2014, the Ministry of Justice initiated inspection of activity of CPK for its appropriateness to the relevant legislation. Firstly, the employees of the Ministry of Justice accounted the number of party organizations situ trying to collect appropriate material by formal consequences for the

judge close of the Party. The communists tried to dispute the actions of the officers of the Ministry of Justice appealing to the court in Astana city in state body's jurisdiction but they lost this proceeding.

In January 24, 2015, there were about several dozen people and the same amount of policemen at Republic Square near to Independence Monument. Gulzhan Yergaliyeva, the editor of the independent magazine "Adam bol", and the employees of the edition and its followers reported to go out for the picket. However, no one of the participants applied to the event did not come as three-four hours before the picket the policemen arrested five men from different places of the city which were delivered to three police stations. Gulzhan Yergaliyeva, Nurmukhanbetov, the chief editor of "Adam bol" magazine, Rozlana Taukina, chief executive officer of Public Fund "Journalists in danger", were delivered to Bostandyk Regional Office of Internal Affairs. Ayan Sharipbayev, the principal of edition "Adam bol", was delivered to Medeu Regional Office of Internal Affairs. Yermek Narymbayev, a civil activist, was delivered to Auezov Regional Office of Internal Affairs. All

five detained persons were released without protocol on administrative violation. ROIA officers showed them some screenshots of the posts of Facebook concerning the preparing event but did not formalize them as “calls for carrying out unsanctioned meeting”, obviously, because of the UN Special Rapporteur on peaceful meetings being to the country.

In January 26, 2015, D.Aketayev, the judge of Medeu regional court, refused to sustain the claim made by the members of community movement “Let’s save Kok-Zhailau” towards Almaty city government on refusing to sustain the claim on carrying out the meeting for nature protection. The first proceedings on this claim was assigned to consider for January 6 but in respect of nonappearance of the defendant was moved to January 19 (the proceedings was not carried out because of the same reason – nonappearance of the defendant. In January 26, two young lawyers came for the defendant by the government’s letter of attorney. The ecologists were refused for their application to carry out the meeting by naming only most common references to the legislation on orders to carry out peaceful meetings without concrete reasons for refusing this application. Having heard in formal manner, the judge D.Aketayev concluded to refuse the claim that meant the court’s

confirmation of the lawfulness of the refusal of Akimat.

In February 1, 2015, Talas Sagimbayev, a human rights activist, was arrested in Astana city during the appointed meeting with Masimov Kazhimkan, father of the Prime-Minister, in Rixos Hotel concerning returning money to the hoodwinked investors and was delivered to the Department of Internal Affairs in Astana city (he was got into the private car by force when protocol for arrest was not established, there was no any note in DIA log and all the action were carried out without participation of advocate). Afterwards, he was served with request for summons for February 16, 2015 on appearance to DIA of Astana city with the advocate concerning the criminal case which he was charged with by article 362 CC of RK that is processed by the present time.

In February 9, 2015, the appeals instance of the court of Almaty city confirmed that Musagali Duambekov, civil activist, must pay 400 thousand tenge (2,000 euro) for Mukashev entrepreneurs’ claim. The reason of such civil proceedings was the verdict of guilty brought concerning M.Duambekov by article 129 of CC of RK “Defamation”. In 2014, M.Duambekov published two articles in the site INSIDERMAN.kz accusing entrepreneurs of

kidnapping, beating, torture, taking former driver of the manufacture in captivity and arrogation of a group of persons in collusion as well as implementation of illegal business practice by organized group.

In February 13, 2015, Mikhail Barsukovskij, one local entrepreneur and activist of local branch of Social Democratic Party, addressed to the Head of Shcherbaky district (Pavlodar region) during report meeting to population. The man criticized work of government authority and proving of his words showed the officer the rating of the local principals published in region magazine "Zvezda Priirtyshya" at the end of last year. Yergali Askarov joined two outsiders placing 11. Mikhail Barsukovskij submitted the Head principal the best output from this situation – to resign voluntarily. At the same night, the family of the oppositionist was suffered from fire – the house where his son lives was flamed out. The firemen found out that the reason of fire was act of arson. The police charged the criminal case but did not find out violators. And in a few days, the house belonged to Mikhail Barsukovskij was tried to be fired.

In February 19, 2015, there was carried out the meeting between Yesimov, the Almaty city mayor, and community of the city without announces. Abai Zhakenov, "Let's save Kok-Zhailau" movement

activist, went out of his home at 5.30 a.m. to get the meeting before the buses with citizens would arrive there. Yerkenov had questions to the Head principal concerning ecology, transport, collection and flash of household rubbish, social infrastructure as well as the government of Almaty city is not performing orders of the President. In a few hundred meters from the place of destination he was captured by police that required his identification card. A.Yerkenov showed it. Afterwards, the policemen reported that they were capturing everyone. About 5:45-50 a.m., A.Yerkenov was delivered to Medeu ROIA. The police took his camera and mobile telephone. He was placed into the bear cage despite demands to provide possibility to call on the advocate, to see the duty prosecutor and to see the documents on the basis of which he was arrested. He was kept up to 9:20 a.m. refusing him all the requirements but demanding from Yerkenov the explanatories on his being at the street. The advocate come to the ROIA who demanded to give explanation was get out of the building without any comments, explanation and showing the documents for his arrest. Also, two activists of "Let's save Kok-Zhailau" movement which come to the meeting with city mayor was get out by the duty policemen without any explanation. One of them – Andrew Buzykin was delivered to the police

station accusing him of illegal getting into the hall and after obtaining the explanatory was released.

February 19-20, 2015. In February 4, the members of the community “Civil defense” appealed the claim to Medeu region court in Almaty city protecting rights of the member of our community. And in February 9, Musakhodzhayev, the judge, attained the verdict to leave the claim without consideration referred to paragraph of the Code of Civil Procedure as required duty providing high judicial education diploma. There was sent the letter to the judge Musakhodzhayeva where the same paragraph was mentioned where the community organization leader rights is provided to protect the rights of its members at that the judicial diploma is not considered by any way. After that the judge accepted the claim for consideration and fixed the date of its proceedings for February 20. However, in this day the judge refused once again to consider it on the basis of the same reason was in February 9. At that Vladimir Borisov, the judge of the Supreme Court of Republic of Kazakhstan, explained that there is not required for persons, authorized by the community organizations to protect rights of their members, to have high judicial education diploma. As a result of that the city court recognized the decision of Musakhodzhayeva is illegal.

February 25 2015, the appeals commission of the court in Almaty city delayed the claim of the communists on the decision of the economic court as of December 25. Then the judge sustained the verdict to freeze the activity of the Communist Party for three month without the presence of the defendant due to differences between actual numbers and listed of the members of the Party. Toleubek Makhyzhanov, new first secretary of the Communist Party, announced in his claim a range of the deals specified fully politically motivated prosecution of one of two left parties. So the communists initiated to call on the General Prosecutor Office requiring inspect a number of the members of the presidential party “Nur Otan” and its activity for looking up the corruption. There was the answer to this question that explained the state has no rights to intervene into the business of the community organizations and the Ministry of Justice does not authorized to inspect. Also, during inspection of a number of the members of the communists and comparing it with the list, the employees of the Ministry of Justice required from people to confirm their political respect that violates the Constitution of the RK as well as the Law on personal data. The applications of the members of the party were written as by copy with a numerous of mistakes, but certain – anonymously. Those who left their data and talked to Makhyzhanov they

were under pressure of the local authorities. Despite all the consequences the judge refused the claim.

In March 3, 2015, DIA of West-Kazakhstan region carried out inspection before investigation on article “Misleading information extension” (274 CC of RK) respect to Mariya Kovalyova, the journalist of independent newspaper “Uralsk week” because of her publication “There can be treated separatists in Uralsk city who could be injured in

Ukraine”. The author reported during her trip to Russia she met a man who told her he takes a part in the armed conflict in the east of Ukraine on the pro-Russian side and having injured he became to treat in the region clinic hospital in Uralsk city as well as other fighters of Donetsk People’s Republic and Lugansk People’s Republic. The journalist called on the head of the region clinic hospital and there was reported that nobody had not been to the hospital with such the passport data.

This bulletin was prepared by Kazakhstan International bureau for human rights with the support of Netherlands Helsinki Committee in fame of the project «Support human rights defenders in post-Soviet countries»

Contacts:

423 Suite, 4A, microdistrict 8,
050035, Almaty, Republic of
Kazakhstan

Tel/Fax: +7 (727) 249 59 62;
+7 (727) 249 60 44
(legal department)

**Site: www.bureau.kz/en/
E-mail: grindelson@gmail.com**