



RIGHT OF DEFENCE

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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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OVERVIEW



The end of 2017 marked some unpleasant events for Kazakhstan. These included tough remarks by Kyrgyzstan's President Almazbek Atambayev about Nursultan Nazarbayev that provoked a diplomatic scandal and grew into an economic war between the two neighbouring countries. Strikes at the mines of, first, a copper producing plant and then a metallurgical plant resulted in that the strikers' claims were satisfied in full in the former case and partially in the latter. Another bank supported by the National Bank of Kazakhstan has collapsed. Finally, a great deal of Kazakhstan's National Fund's money and Samruk Kazyna's assets were frozen in the U.S. after a claim from Moldovian businesspeople.

However, this does not prevent Kazakh authorities from pursuing their policy of legislative and law-enforcement pressure on civil society and the media or continuing their war against opponent number one, Mukhtar Ablyazov.

While this political emigrant who is staying in France is understandably inaccessible for Astana, the blows are targeted on those he had cooperated with or simply sympathised with him. Officials and their puppet media, bloggers and trolls make every attempt to demonise Ablyazov in the eyes of foreign countries and domestically, but to no avail.



ECONOMY

The Ministry of Finance estimates the nation's total fiscal deficit at KZT 1.5 trillion (ca. EUR 4 billion). The October fuel crisis stirred people and resulted in the displacement of the vice minister of energy Kanat Bozumbayev reported cuts in oil production: the planned daily outputs at the Kashagan field located in the northern part of Kazakhstan's sector of the Caspian Sea were reduced by 120,000 barrels, from 370,000 to 250,000, until the end of 2017. At the same time, the North Caspian Operating Company (comprising KazMunaiGas, CNPC, Inpex, Total, Shell, ENI, and

ExxonMobil) that is developing Kashagan announced an optimisation programme. The restructuring strategy envisions staff reduction by 200 employees. Unofficial data suggests that up to 500 people will be dismissed.

The media informed that in 2017 Kazakhstan ranked 57th among 137 countries in the World Economic Forum's Global Competitiveness Index. The year before, it was at the 53rd position on the list and in 2015 the 42nd. In the World Bank's Doing Business index, Kazakhstan ranked 65th, down seven notches year-on-year.



STRIKES

On 29 November, miners at Kazakhmys (copper producer) struck in Jezkazgan District of Karaganda Oblast. Over 300 people refused to come to the surface after their shift had completed and submitted their claims to the company's management. The workers' claims to the copper giant included a 70% salary increase, the re-calculation of pensions, free treatment at health resorts, the return of buildings into the corporation's ownership, the liquidation of mobile teams, and the arrangement of training at colleges and of the meeting with the corporation's CEO Eduard Ogai. By the midnight of 30 November, after lengthy negotiations and disputes, most of the striking miners went home. The confrontation cooled down when Kazakhmys' managers declared they would raise salaries by KZT 100,000 (ca. EUR 250) for all categories of plant workers.

On 15 December, a strike of coal miners at the metallurgical giant ArcelorMittal Temirtau near the town

of Shakhtinsk ended. The protesters were promised to have the salaries of those working underground raised by 30% from 1 January 2018 (their initial claim was to double the wages) and an annual bonus in the amount of the salary. A reconciliation committee will revise salaries for ground workers. The prosecutor of Shakhtinsk guaranteed that the strikers would not be held liable under the Criminal Code. Up to 700 workers took part in the strike. On 14 December, the Shakhtinsk Court satisfied ArcelorMittal's claim to suspend the strike and declare it illegal. The defendants in the case included the strikers themselves and two trade unions, Korgau and Zhaktau. A day earlier, however, the miners stated about their mistrust in the Korgau trade union and its chair Marat Mirgayazov and requested that their interests be represented by the head of the Shakhtyorskaya Semya (Miners' Family) civil society association Natalya Tomilova. Remarkably, almost all residents of Shakhtinsk supported the strikers.

Several stars of Kazakhstan's show business expressed their support for the miners.

Oil workers at China-owned CNPC Aktobemunaigas were also reported to have expressed their solidarity with Karaganda's miners and claimed a 100% salary increase, the reduction

of the retirement age for oil workers, an increase in the annual leave, improvements in working conditions, and other social benefits.

By the very end of 2017, miners at KazMinerals, another copper producer in East Kazakhstan Oblast, also demanded an increase in wages.



FOREIGN POLICY

The unpleasant statements by the leaving Kyrgyz President Almazbek Atambayev about Nursultan Nazarbayev resulted in the taking of diplomatic measures by Kazakhstan but then led to crowds at the Kazakh-Kyrgyz border – it is evident that Kazakhstan's border officers were instructed to create artificial queues. Then the import of foodstuffs from Kyrgyzstan was prohibited and, ultimately, Kyrgyzstan announced its possible withdrawal from the Eurasian Economic Union (EAEU). At the same time, Astana claimed that Kyrgyzstan had violated the rules of trade within the EAEU by re-exporting Chinese goods to the Union's countries, in response to Kyrgyzstan's denunciation of the agreement with Kazakhstan for a US \$100 million financial assistance from the latter to fulfil the roadmaps of Kyrgyzstan's accession to the EAEU.

On 19 December, the United Nations General Assembly adopted Ukraine's resolution on the "Situation of Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol," by a vote of 70 in favour to 26 against (including Kazakhstan), with 76 abstentions.

LEGISLATIVE INITIATIVES

The draft law On Amending and Supplementing Certain Statutes of the Republic of Kazakhstan Regarding Religious Activities and Religious Associations that had raised concern with religious communities and human rights activists has been most probably postponed until the next year. In the meantime, the suggested amendments are being advertised among the “beneficiaries” of the instrument.

President Nazarbayev signed Decree 579, On Certain Issues of Protecting State Secrets of the Republic of Kazakhstan, which transfers the functions and powers relating to the protection of state secrets of the Republic of Kazakhstan from the Government’s Chancellery to the National Security Committee. Experts believe this will make Karim Massimov’s influence even stronger.

On 7 December, the Senate approved amendments concerning the upgrade of the fundamental law-enforcement procedure. The law can be divided into two parts. The first solidifies protection of human rights, while the second aims to streamline the procedure.

On 22 December, President Nazarbayev signed the Law On Amending and Supplementing Certain Constitutional Laws of the

Republic of Kazakhstan. It sets out more precisely some provisions of the constitutional laws concerning the judicial system, the placement of the state symbols, and the work of the Constitutional Council and the Astana International Financial Centre.

By the end of the year, on 28 December, President Nazarbayev signed amendments to the laws on information and communications. These amendments complicate the procedure and extend the period for responding to journalists’ enquiries by two and a half times, contrary to the recommendations of authoritative international organisations. In fact, the law obliges the owners of the websites where users can post information (forums, social networks, comments on the news, etc.) to censor such posts and take part in investigative work that involves the use of telecommunication networks. The equipment of such websites with instruments and software for the identification of users will inevitably place a serious burden on businesses working in this sphere. The law also introduces the term of “information prejudicing legal interests,” without providing any legal grounds for this. In addition, it obliges journalists to obtain consent to the distribution of personal and family secrets, although these terms are not given accurate legal definitions.

POSITIVE EXAMPLES



On 2 October, the Working Group on Arbitrary Detention of the Office of the United Nations High Commissioner for Human Rights published its opinion concerning the detention and imprisonment of Teimur Akhmedov, one of Jehovah's Witnesses. In it, the international authority calls the Kazakh government to free the follower of the religious organisation immediately. **However, the Supreme Court of Kazakhstan refused to accept the petition to revise Akhedov's case, which was filed based on the Decision of the United Nations Working Group on Arbitrary Detention.** *In January 2017, Akhmedov was arrested by the National Security Committee for expressing his religious beliefs and charged under Article 174 of the Criminal Code (instigation of religious hatred). On 2 May, the Astana Court sentenced Akhmedov to five years in prison.*

On 15 October, Yermek Taichibekov, a blogger, was released on parole having spent two years and one month in prison. Taichibekov was sentenced to four-year imprisonment under Article 174 of the Criminal Code (instigation of religious hatred) for his Facebook posts where he wrote about his

dream that Kazakhstan and Russia would reunite as a single Eurasian state.

On 4 December, the resolution of the Kapchagai Town Court (Almaty Oblast) to release Seitkazy Matayev, chairman of the Union of Journalists of Kazakhstan, on parole took effect. *The president of the National Press Club Seitkazy Matayev and his son Asset Matayev, general director of the KazTAG information agency, were arrested on 22 February 2016. They were charged with fraudulent dealings for a total of over KZT 300 million with the Communications, Information and Informatisation Committee of the Ministry of Investment and Development of Kazakhstan and Kazakhtelecom, and tax evasion in the amount of KZT 300 million. The court passed its judgement concerning Seitkazy and Aset Matayevs on 3 October, sentencing them to six and five years in prison respectively, with the seizure of illegally acquired property. The appellate court upheld the first judgement.*

On 13 November 2017, the United Nations Committee for Human Rights made its decision on the complaint by the soldier Vladislav

Chelakh concerning the violation of his right to fair trial. Chelakh had been charged with having shot his 14 comrades and a ranger and destroyed service and household facilities at Arkan-Kergen, Kazakhstan's temporary border post, on 28 May 2012. On 11 December 2012, Chelakh was declared guilty of the crimes and sentenced to life imprisonment. The complaint was prepared and filed by the Bureau for Human Rights.

On 12 December, the European Parliament ratified the Enhanced Partnership and Cooperation Agreement between Kazakhstan and the EU, by a majority of votes. The sides signed the document two years ago. The agreement covers 29 areas of cooperation, from economy and trade to countering the spread of weapons of mass destruction and terrorism, as well as cooperation in the area of climate change, healthcare, public finance and taxation. The European Parliament's resolution contains many requirements related to ensuring compliance with human rights, including the requirement to take measures in specific cases.

RENEWAL OF THE CASES OF POLITICAL PRISONERS AND POLLITICALLY OPPRESSED PERSONS



Max Bokayev and Talgat Ayan

Tolepkali Ayanov, Talgat Ayan and Max Bokayev's lawyer, stated that it had taken three days to consider appeals from the two activists. After the Appellate Board of the Atyrau Oblast Court upheld Bokayev and Ayan's sentences on 20 January 2017, the lawyer filed three cassation appeals. However, his petitions to the Cassation Board of the Supreme Court of Kazakhstan, in which he requested to shorten the sentences, were not considered. According to the lawyer, the judge at the trial court had said it openly that the case was a political one. In August, Talgat Ayan was transferred to Colony K-168/2 in Aktobe and Bokayev remained at the Petropavlovsk Colony, although the law requires that they serve their sentences in a colony in Atyrau Oblast, of which they are residents.

Max Bokayev and Talgat Ayanov (Ayan), civil society activists from Atyrau, were judged to five years in prison in November 2016. They were found guilty of having violated three articles of the Criminal Code of Kazakhstan: inciting social hatred, organising an unauthorised rally, and distributing knowingly false information. Both activists denied their guilt. The proceedings involved multiple violations of law. Several human rights organisations, the U.S. Embassy in Kazakhstan and the EU delegation asked to free Bokayev and Ayanov. Amnesty International declared them political prisoners.



Vadim Kuramshin

Olga Koltunova, Vadim Kuramshin's mother, reported that the High-Security Penal Colony in the settlement of Gorny, North Kazakhstan Oblast, where her son was serving his sentence, would soon be closed. She was concerned that Vadim was to be sent to a colony in Ust-Kamenogorsk as envisioned by the colony's reorganisation scheme. Koltunova believed that Kuramshin would be in danger at the new facility because before his arrest he had repeatedly criticised the managers of this colony and alleged they had tortured the prisoners. She also complained that if Kuramshin was transferred to Ust-Kamenogorsk, it would be difficult for her to visit him. The transfer was scheduled on 10 December. Vadim Kuramshin was transferred to that colony in late December.

On 7 December 2012, Vadim Kuramshin was judged to twelve years in high-security prison after having been found guilty of blackmailing an assistant of a district prosecutor. Kuramshin was arrested in connection with these charges soon after he had returned from an OSCE conference in September 2012 where he talked about violations of human rights in Kazakhstan. The first jury declared Kuramshin not guilty of most of the charges, but then the jury members were replaced.

Incidents with human rights activists, public organizations, independent media as of October to December, 2017

October 2017 day he prepared several posters for

HUMAN RIGHTS AND CIVIL
SOCIETY ACTIVISTS,
BLOGGERS

29 September 2017, SHYMKENT. The oblast court of appeal upheld the sentence for Larisa Kharkova, former chair of the Confederation of Independent Trade Unions of Kazakhstan that had been closed by the authorities. The lower court condemned Kharkova to the confiscation of property, four years of restraint, 100 hours of monthly forced labour and a five-year prohibition to hold any positions with civil society or non-governmental organisations. On 25 July 2017, Larisa Kharkova was found guilty of having abused her authority and condemned to four years of restraint with the confiscation of property.

2 October 2017, ASTANA. Muratbek Argynbekov was found guilty of having infringed the procedure for holding a rally and condemned to 10 days of administrative arrest for an alleged attempt to organise a protest. In one of his Facebook posts, he called people to gather for a rally “on the issues of the land law and price increases” on 1 October at the Baiterek Monument in Astana. That

day he prepared several posters for the protest and went out to go to the monument or elsewhere.

21 October 2017, KIEV. Zhanara Akhmet, a blogger from Kazakhstan, was detained near Kiev where she had fled with her minor son this spring. Akhmet explained her escape by the political prosecution in Kazakhstan. In the evening, two men came to her, drew her from the apartment she lived in and did not let her back. Akhmet called to the police and her lawyer. Then the men tried to detain her by force. After the police arrived, they went away. Zhanara Akhmet was detained for 72 hours and placed in a pre-trial detention facility. The court later decided on her extradition arrest. Akhmet was detained at the request of the Prosecutor General’s Office of the Republic of Kazakhstan. Before fleeing the country, she had been under probationary supervision after she had been released on parole from a prison where she had served her criminal sentence. On 18 October 2017, Ukraine’s Migration Service refused to grant Akhmet asylum. However, she was not informed about this decision and, therefore, could not appeal against it. On 22 November, the Kiev Appellate Court released Zhanar Akhmet on

bail put up by the parliamentarian Svetlana Zalischuk.

29 October 2017, KOKSHETAU. An unknown man attacked Marat Zhanuzakov, an opposition and human rights activist, when he walked to his office in the morning. The attacker hit Zhanuzakov on the head so that he lost consciousness and fell to the ground. There were spots of blood on the pavement. When Zhanuzakov recovered consciousness, he went to a police station and made a report. The police initiated pre-trial proceedings under the charge of disorderly conduct. Marat Zhanuzakov is a member of the organisational committee of the Svoboda (Freedom) Prize awarded since 2013 to people who promote democracy and civil society in Kazakhstan. In 2002, he headed an oblast division of the opposition party Democratic Choice of Kazakhstan (DVK) and then a division of Alga, an unregistered opposition party. In 2012, this party was prohibited in Kazakhstan by court.

LAWYERS

6 October 2017, URALSK. Ruslan Shagatayev, deputy chair of the West Kazakhstan Association of Lawyers in Uralsk, stated that the association lawyers intended to take part in the All-Kazakhstan Convention of Lawyers on 14

October where they wanted to protest against the proposed Law on Lawyers. The National Security Committee demanded that the Association of Lawyers submit the list of participants in the convention.

25 October 2017, ASTANA. Bauyrzhan Azanov, a lawyer, was approached by three unknown, heavily built young men wearing sports clothes with hoods in the street. They took Azanov by the elbows and demanded that he stop “persecuting” the police officers Tukenov and Medetov who had attacked the lawyer in court premises back in 2015, handcuffed him and manhandled him for an hour. Azanov had managed to bring criminal charges then and, over the entire period that followed, did not allow the police to terminate the case.

November 2017

HUMAN RIGHTS AND CIVIL SOCIETY ACTIVISTS, BLOGGERS

1 November 2017, ASTANA. Saryarka District Court 2 in Astana declared Aidyn Yegeubayev, a civil society activist, guilty of having slandered Nurlan Biyaldilov, a founder of the Batua company, and discredited his business and sentenced him to two years of restraint and the payment of moral damages totalling KZT 100,000 (ca.

EUR 250). Judge Bolat Pazylov dismissed Biyaldilov's claim for financial damages worth KZT 87 million (ca. EUR 230,000). The claim was a result of several events. Two of them were associated with the media, the Newtimes.kz website and the DAT newspaper that had published articles with Yegeubayev's words that, "China has already taken possession of Kazakhstan's land." Earlier, Yegeubayev made a YouTube post where he had allegedly stated that Batua had China's citizens among its founders.

27 November 2017, ALMATY. Six people were detained several days before the First President's Day. Four of them were arrested. According to investigators, they had planned, under the guise of an unregistered civil society organisation, activities to disturb the public order, intimidate the public and sabotage the work of law-enforcement bodies. The next day the police stated to the media that, "the detained persons had planned to distribute propaganda materials and had already prepared a video statement calling for armed jihad." However, earlier they had applied to the akimat (mayor's office) for permission to hold a sanctioned rally on social issues. One of the detained persons, Almat Zhumagulov, was a member of a

non-official group of Facebook users who gathered in a park near the monument of Mahatma Gandhi to discuss political and social issues. In the video they had allegedly prepared, three people in masks called their countrymen to join armed jihad against the government. The video was attributed to the detained group of persons because the faces of the speakers can be seen in one of the cuts. Then three people in masks appear under the flag of Hizb ut-Tahrir, an organisation that had been prohibited in Kazakhstan but had been unpopular for a long time already. Out of the four arrested persons, Almat Zhumagulov and Kenzhebek Abishev's arrests were extended. They were charged with having propagated terrorism with the use of the mass media or telecommunication networks. Notably, Abishev did not appear in the video. The others are on recognisance. The lawyers of the arrested persons provided a video where one of the participants, presumably a National Security Committee's officer, gives them fake guns and explains what they should do.

27 November 2017, ASTANA. Judge Birzhan Toregeldy at Saryarka Court 2 in Astana declared Makhambet Abzhan, a human rights activist, guilty of having committed sizeable fraud

and condemned him to three and a half years in prison with the seizure of “illegally acquired” property. The court concluded that Abzhan and his former friend Azamat Zhetpibayev had deceived Galymzhan Panov by having proposed him to buy an apartment at the Atakent residential estate to be constructed by Zhetpibayev’s development company. The latter was a complainant in the case. According to investigators, Abzhan had persuaded Panov to pay an instalment of KZT 1 million (ca. EUR 2,500) for the purchase of the apartment. However, since Zhetpibayev’s company had failed to begin construction, the complainant had accused Zhetpibayev and Abzhan of fraud. Notably, the period for constructing the estate had not completed yet at that time, and Abzhan had returned the complainant his money. Then, however, Zhetpibayev had accused Abzhan of having received USD 8,000 from him. The head of Shanyrak, a republican civil society association, is known for having assisted troubled debtors and residents of Astana whose property had been seized for “government needs.” He also initiated a number of protests and was arbitrarily detained and sentenced to administrative arrests several times. In 2016, he was condemned to restraint after having been beaten by police officers for the alleged tear of a pocket of one of

the police officers.

29 November 2017, KYZYLORDA. Police officers burst into the apartment of Khadisha Akhmetzhan, an activist who had held a stand-alone picketing a week before requiring that President Nazarbayev reside. She has also been criticising social and political events in the country in her Facebook posts for several months. The police officers wanted to make an administrative record and then detain Akhmetzhan. They were stopped by the fact that she, being a single mother, had a disabled child. Later, Akhmetzhan reported that she had received telephone calls with threats and promises that she would be jailed. In late November, unable to resist pressure, she fled to Kyrgyzstan with her child.

CIVIL SOCIETY ASSOCIATIONS

17 November 2017, ASTANA. The Specialised Interdistrict Economic Court of Astana had a preliminary (and final) hearing of the case filed by Astana’s Yesil District State Revenue Department against the Alash Zholy republican civil society association. The claimant required that the court invalidate Alash Zholy’s registration as a legal entity because of the “irreparable” infringements of the law committed during its foundation, including “unlawful involvement of

participants during registration of the civil society association.” The reason for the claim was that two out of the eleven participants on the list stated that they had nothing to do with the registration of the organisation. Alash Zholy was set up in April 2016 to counter the government’s plans to lease land to foreigners.

December 2017

HUMAN RIGHTS AND CIVIL SOCIETY ACTIVISTS, BLOGGERS

6 December 2017, ALMATY. Judge Kaparova at the Bostandyk District Court in Almaty considered the claim concerning the dispossession of the family of Murat Telibekov, head of the Union of Muslims of Kazakhstan and the Muslim Committee for Human Rights, and ordered termination of the proceedings. The court took into account that the case had been heard earlier and there was a valid judgement on it that dismissed the claims against the Telibekov family. An important fact was that a minor was to be deprived of the only housing if the case were satisfied. A group of fraudsters, including a police officer, used counterfeit documents in an attempt to dispossess the Telibekov family of their apartment they had lived in for over twenty years. The first time they came to Telibekov’s apartment without any documents and tried to

force the family from it. An officer of the district police department was among the group. After Telibekov called the police patrol, the invaders run away. They took some valuable things from the apartment. Telibekov reported the incident to the police, mentioning the police officer, but instead of the investigation he was imposed a substantial penalty for having signed his report as “the chair of the Union of Muslims of Kazakhstan,” while the police officers stated that he should have signed it as stated in the registration documents – the Union of Muslims of Kazakhstan civil society foundation. The same police officer against whom Telibekov had made his report was in charge of the administrative proceedings. The court imposed a fine on Telibekov for having violated the Law on Civil Society Associations.

11 December 2017, KARAGANDA. The Appellate Board upheld the sentence for Sanat Bukenov, a lawyer from Balkhash, who had accused a number of officials from his town of corruption. Bukenov was arrested in late June 2016 and sentenced to four years in prison for a “knowingly false report” against representatives of government and law-enforcement bodies on 2 March 2017. There were a total of nine complainants who had held various government offices when “insulted” by Bukenov. This figure is explained

by the fact that the lawyer was involved in two cases at the same time – the alleged malicious prosecution of a resident of Balkhash for the possession of drugs, and an official of the town akimat who had refused to participate in machinations with the distribution of property intended for orphans.

20-21 December 2017, ALMATY. Bakhytzhan Toregozhina, head of the Ar.Rukh.Khak human rights organisation, met with the parents of Iskander Yerimbetov, an arrested businessman, who is being forced by the National Security Committee to persuade his sister, who had obtained political asylum in Belgium, return to the country. Yerimbetov's sister was previously a lawyer at BTA Bank headed by Mukhtar Ablyazov who is currently a political opponent of President Nazarbayev. Toregozhina helps to ensure media coverage of the case of Yerimbetov who is being tortured and pressured at the pre-trial facility. During the meeting in a café, Toregozhina found a covert listening device in a napkin holder on the table they sat at and took it with her. The next day she participated in a press conference at the Bureau for Human Rights' press centre where she demonstrated the device. After the meeting ended, one of the men who were present at the conference as bloggers snatched the device from

Toregozhina and tried to run away. He was assisted by three or four other men. The man was caught at the stairs and the device was taken away from him, but he and other men managed to escape. A report was made to the prosecutor's office, which was later redirected to the police.

28 December 2017, SHAKHTINSK. Natalya Tomilova, chair of the Shakhtyorskaya Semya (Miners' Family) organisation, reported that she and Dmitry Sinyavsky, head of the branch of the Professional Union of Workers of the Fuel and Energy Sector, were summoned to a police department. The police intended to produce a report on disorderly conduct. Tomilova was detained on 14 December near the Kazakhstanskaya mine where she had come to meet the striking miners who had expressed mistrust in their trade union. She felt unwell after the detention and was taken to a hospital. The report was made by the mine's security guards and the police qualified Tomilova's actions as minor misconduct. The police have taken no action against Tomilova since then, however. In addition, Marat Mirgayazov, chair of the Korgau trade union of coal miners, made a report against Tomilova, Sinyavsky and Kozhabekov, another member of the Professional Union of Workers of the Fuel and Energy Sector, but then withdrew it.

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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**