



The case of Almat Zhumagulov and Kenzhebek Abishev

1. Introduction

In April 2017, opposition politician Mukhtar Ablyazov, along with his associates, announced the resumption of the activities of the '[Democratic Choice of Kazakhstan](#)' (DCK) movement. The previous DCK movement was banned by a Kazakhstani court on charges of 'extremism' in 2005.

According to Ablyazov, 32,000 people joined the DCK in 2007. In authoritarian Kazakhstan, the DCK has become a real opposition force, which, acting secretly, began working on consolidation of protest sentiments. Ablyazov announced that his goal was to change the authoritarian regime through peaceful mass protests, and to build a parliamentary republic.

The facts indicate that, in response to the growing popularity of the DCK, the Kazakhstani authorities decided to fabricate compromising evidence and to discredit the opposition movement, accusing it of involvement in 'terrorism'. Almat Zhumagulov and Kenzhebek Abishev have become targets of the fight. Their criminal case, which resembles a detective story, is an example of how defenseless civil activists are once they become victims of provocations by the special services of an authoritarian state.

Now, based on the facts and data obtained from the counsels, we are aware of the following.

On 23 November 2017, the activist of the DCK, Almat Zhumagulov, was visited by a man called Oralbek Omyrov. He introduced Zhumagulov to 'his friends' who allegedly 'wanted to join the DCK'. After the meeting, Omyrov and 'his friends' (at least three people) filmed a video message with appeals for jihad. On 27 November 2017, at night, Omyrov sent the video message to activists (including supporters of the DCK). In the morning, the police immediately arrived at their places of residence with search warrants.

The investigation bodies stated that the extremist video message had been prepared by three people: Omyrov, Zhumagulov and Abishev. Although neither Zhumagulov nor Abishev were present in the video recordings, they were put behind bars. At the same time, the people who actually shot the video, along with Omyrov, remain at large.

Kazakhstani activists and human rights activists have reason to believe that Omyrov, a former prisoner, could have been included in the ranks of the DCK activists for the purpose of carrying out a provocation. Or, at least, the authorities used Omyrov for their own purposes.

Presumably, one of the goals was to intimidate the DCK activists and create barriers to the work of the organisation. The investigation bodies voiced the version that the arrested '[acted on the orders of criminal elements hiding from Kazakhstan's justice and residing abroad](#)'. Judging by

the rhetoric of the pro-government media, the statement referred to Mukhtar Ablyazov, whom the President of Kazakhstan has considered his personal enemy for 16 years now. In December 2016, the French authorities recognised the persecution of Ablyazov as politically motivated and [refused to extradite him](#). However, Kazakhstan [is looking for new ways](#) to have Ablyazov declared wanted by Interpol and to resume extradition proceedings against him.

This is not the first time that the Kazakhstani authorities have strived to label the opposition 'terrorists'. Previously, the authorities fabricated a case 'on terrorism' against Ablyazov's colleagues: Muratbek Ketebayev and Alexander Pavlov, who were subsequently granted political asylum in EU countries.

Having put the DCK activist Zhumagulov behind bars, the authorities gave another signal: criminal prosecutions will be initiated against anyone who publicly supports Ablyazov, cooperates with the opposition or spreads opposition views. Other activists are already being summoned for questioning within the framework of this criminal case.

As for Abishev, it seems that he was an 'accidental' victim, which is typical for trumped-up cases. The defence emphasises that Abishev is not an opposition activist and does not support the DCK. Abishev writes poems presenting his civic position. Investigators demand that he testify against himself and Zhumagulov, and **'give an interview or write a post on Facebook against Ablyazov'**. Therefore, it is obvious that the authorities are using this case for propaganda purposes.

In the detention facility, Abishev and Zhumagulov have been ordered to sign 'accusatory' statements under the threat that 'something will happen to their family members'. They have been placed in cold cells without windows and with unsanitary conditions. They are denied proper medical care. According to Abishev, he has had 6 heart attacks in the detention facility.

Almat Zhumagulov **is an activist of the Almaty unit of the opposition movement Democratic Choice of Kazakhstan (DCK). Zhumagulov [participated](#) in protests against the Land Reform, as well as in actions in support of political prisoners of Kazakhstan. He, along with other activists, repeatedly applied for a permit to organise rallies, but each time received refusals from the authorities. In December 2016, Zhumagulov was arrested for 15 days [for sharing a message](#) calling for a rally on his Facebook page.**

Kenzhebek Abishev **is a Kazakhstani blogger and poet. Abishev has nothing to do with the opposition and does not support the DCK, as noted by his counsel Gulnara Zhuaspayeva. On Facebook, Abishev published his poems in the Kazakh language (in the genre of fables and civic lyrics). Some poems were published in the newspaper 'Zhas Alash'. Previously, Abishev worked as a driver in the law enforcement agencies, and recently held a position as a security guard at a bank. According to human rights activist Bakhytzhan Toregozhina, communication between Abishev and Zhumagulov began because they both opposed the Land Reform.**

2. A discussion club of activists in Almaty Park

In 2017, Zhumagulov, along with opposition activists, gathered in the Gandhi Park in Almaty in order to discuss social and political issues. At their invitation, well-known civic activists, in particular, Galym Ageleuov, Rysbek Sarsenbai, Zhasaral Kuanyshalin and Yerlan Kaliev, participated in the discussion club. The discussions were broadcast live on Facebook.

Activists phoned Abishev in order to invite him to visit their discussion club. Once he came to the park to meet with the activists but immediately left the place, the counsel stated. It is common knowledge that Abishev was not interested in discussing other issues apart from the Land Reform and the problems of rural communities.

On 28 November 2017, the police detained Zhumagulov and Abishev, and also searched their flats. Along with them, another person was detained, namely **Oralbek Omyrov**.

It is a well-known fact that a month before, Omyrov began to attend the discussion club in the park. Activists pointed out that he hadn't behaved 'appropriately' and used harsh expressions. In addition, previously, Omyrov served time in prison, having been convicted of murder and, according to the available information, was released on parole.

On 29 November 2017, a Kazakhstani court arrested Zhumagulov, Abishev and Omyrov on charges of 'pre-orchestrated dissemination of propaganda of terrorism by a group of persons' (Article 256, section 2 of the CC). Since then, the court has extended the term of arrest, and they are still being held at the detention facility.

3. The dubious nature of criminal charges brought against Zhumagulov and Abishev

3.1. Zhumagulov and Abishev were accused of preparing a video message with appeals for jihad. At the same time, neither is present in the video footage

According to the prosecution, the 'group leader' Zhumagulov 'engaged Abishev and Omyrov in actions aimed at promoting terrorism'. The investigation stated that all three people 'prepared the video message with appeals for armed jihad'.

On 27 November 2017, at approximately 3:00 a.m., the video footage referred to by the investigation bodies was sent to a chat on WhatsApp. In the chat, the participants of the meetings in the Almaty park were communicating. According to the activists, the video footage was sent from **Oralbek Omyrov's phone**. A few hours later, at 7:00 a.m., the police began the searches in the flats of the chat group participants.

The police in Almaty provided the media with fragments of [the video footage](#). In the first shots **Oralbek Omyrov** is depicted instructing three persons in masks about what to say and how. They were recorded by a hidden camera, which, apparently, was established by the law enforcement agencies. Next, three masked men are shown holding items resembling weapons, and recording an appeal to the public in the Kazakh language.

According to the information of the activists, **it was Oralbek Omyrov** who brought to the apartment all the paraphernalia for filming.

Almat Zhumagulov and Kenzhebek Abishev are not seen in the video or on the records of the hidden camera.

3.2. The investigation bodies have not detained or interrogated those who actually participated in the filming of the extremist video message

According to counsel Zhuaspayeva, in the video footage, in addition to **Oralbek Omyrov** there are also people named **Almaz** and **Saken**, and **Askhat Sharbat**. According to the counsel, there was another person, whose name is not known yet, who also participated in the filming.

Officially, masked persons are considered 'unidentified'. However, according to the defence, during interrogation, **Omyrov gave the names of all persons in masks** and demanded a confrontation with them. But the investigation hasn't detained them and hasn't even summoned them for questioning. At the same time, the authorities have arrested Abishev and Zhumagulov.

Kenzhebek Abishev claims that he is not acquainted with Omyrov or any other persons who recorded the video material. **Almat Zhumagulov** spoke with these people earlier. In particular, counsel Zhuaspayeva became aware of the fact that on 23 November 2017, Oralbek Omyrov introduced Almat Zhumagulov to 'his friends' who allegedly 'wanted to join the DCK'. Zhumagulov told them that in the the DCK, ['everything will be done according to the law'](#). After the meeting, on the same day, Omyrov along with 'his friends' made the video, the counsel reported.

Zhumagulov and Abishev have stated that they had nothing to do with the video footage, and they call the incident a 'provocation'.

3.3. The authorities distributed the audio recordings and, in violation of the presumption of innocence, stated that these were 'recordings of conversations' between Abishev and Zhumagulov

Zhumagulov and Abishev are accused not only of producing the video footage with a calling for jihad. Another point of the accusation is '**preparation of actions to violate public order, intimidate the population, and sabotage the work of law enforcement agencies**'. According to the investigation bodies, they were engaged in this activity since August 2017 '[under the guise](#)' of the DCK.

On 8 December 2017, the Almaty police distributed to the media discs with audio recordings of the conversations. In the transcript provided by the investigation bodies it is stated that the voices allegedly speak of the need to 'threaten law enforcement officers', 'hack websites of state bodies', and 'seek money to purchase weapons', etc.

The authorities stated that the voices heard in the audio recordings allegedly belong to Abishev and Zhumagulov. The pro-government mass media repeated this version and **published [the audio recordings](#) along with the photographs of Abishev and Zhumagulov**.

The counsels stated that the audio recordings have been manipulated, and there is no evidence that the voices belong to Abishev and Zhumagulov. At the moment, a phonetic examination is being carried out. **Abishev and Zhumagulov assert that they have nothing to do with the conversations**.

4. Abishev and Zhumagulov are subjected to cruel treatment at the detention facility

According to a statement by Kenzhebek Abishev, he was questioned by unknown persons several times (in particular, on [4 December 2017](#) and [18 January 2018](#)). They introduced themselves as Bauyrzhan, Olzhas and Askar, but they did not show any ID. Abishev assumes that these are KNB officers, since they ordered the investigator to leave the room and leave the suspect with them 'alone'.

These persons **demanded that Abishev sign accusatory statements, including against Zhumagulov**. "We will tell you what to say at the questionings by the investigation bodies," they said. "If you write for us what we need, we'll tell the judge, and they'll let you go". Still, according to Abishev, they demanded that he "give an interview or write a post on Facebook against M. Abylazov". They also insisted that Abishev resign from the services of his counsel.

In the case of a refusal, Abishev was threatened with a long prison term. Abishev said that these persons mentioned his wife and 14-year-old daughter, suggesting that **they "know everything " about them, and that" something might happen to them"**.

From 23 December 2017 to 7 January 2018, Abishev was held in a damp cell without windows in unsanitary conditions at the temperature of +8°C. Abishev suffers from chronic pyelonephritis and heart problems. According to him, in the period from 25 December 2017 to 18 January 2018, **he had six heart attacks**. In December, he asked that a physician be called, but his request was denied. Only in January was he allowed to receive medicine. Abishev complained of pain in the heart and kidneys, but in response, someone from the detention facility staff told him to '[hang himself](#)'.

Abishev stated that he had to sign a 'commitment to cooperate with the investigation bodies', because he fears for the safety of his family. In addition, '**if I had refused, then I would have been held in a cold cell for a long time, where I definitely wouldn't have survived the next heart attack,**' he explained. Abishev fears that if the court does not change the measure of restraint, he may die in the detention facility.

The law enforcement authorities have yet to react to Abishev's complaints.

On 12 December 2017, it became known that in the detention facility, **Almat Zhumagulov** has been ordered to resign from the services of the counsel and **sign a 'confession'**.

The authorities did not allow his wife to act as a public defender in the case. In protest, on 29 November 2017, Zhumagulov went on hunger strike. After that, from 6 December 2017 to 16 December 2017, he was held in a cell on a concrete floor, without windows, in unsanitary conditions. During the hunger strike, which lasted until 20 December 2017, [he was never examined by medical doctors](#).

Counsel Zhanar Balgabayeva reported that Zhumagulov's relatives **received threats** that someone '[might do something to his children](#)'.

5. The criminal case is used in order to exert pressure on other activists

In the framework of this criminal case, other opposition activists who participated in the discussion club in the Almaty park, suffered. In particular, searches were also carried out in the apartments of activists Mamet Kabyzbekov and Khalalkhan Adilkhanov. They are under house arrest.

In addition, **more than ten persons were summoned for questioning**. These persons include: journalists Geroykhan Kistaubayev and Rysbek Sarsenbai, human rights activist Bakhytzhana Toregozhina, activists Zhasaral Kuanyshalin, Suindik Aldabergenov, Askhat Bersalimov, Marat Uatkhon, Kural Medeuov, Sahib Zhanabayeva, and others [1], [2].

Searches and interrogations were carried out on the eve of the anniversary of the Zhanaozen tragedy, which can be regarded as pressure aimed at preventing peaceful assemblies. Some

activists may face being classified as "suspects", and so, currently, all of their opposition activities have been paralysed.

6. Conclusions and recommendations

In modern Kazakhstan, the DCK is, in fact, the only political force that publicly supports a complete regime change and organises protest forces. Protest sentiments in Kazakhstan are on the rise (the latest examples are [protests by oil workers](#) and trade unionists). Activists of the DCK conduct agitation work in the regions of Kazakhstan. Sensing a threat, the Kazakhstani regime makes attempts to obstruct the DCK's work and intimidate activists.

When Ablyazov appears on social networks in a live broadcast, the speed of the Internet falls dramatically in Kazakhstan, which may be a result of counter-measures by the authorities.

Struggling against the opposition movement and personally with Ablyazov, the authorities subject the supporters of the DCK, former colleagues of Ablyazov and even their relatives, to politically motivated prosecution.

Businessman Iskander Yerimbetov is being tortured in a pre-trial detention facility. They demand that [he coerce his sister](#), Botagoz Jardemalie (Ablyazov's lawyer) to come to Kazakhstan and give 'aggravating' testimony against Ablyazov. According to the information available, businessman Muratkhan Tokmadi was tortured in the KNB pre-trial detention facility, being ordered to 'confess' that had 'committed a murder on the instruction' of Ablyazov 13 years before. As a result, in October 2017, Tokmadi 'confessed' everything. Journalist Zhanbolat Mamay faced accusations that his newspaper 'had received sponsorship from Ablyazov'. Mamay was subjected to battery in the detention facility. In September 2017, he was sentenced to three years of restraint of liberty.

What happened to Almat Zhumagulov and Kenzhebek Abishev resembles a carefully premeditated provocation by the special services. At the same time, Abishev became a victim of politically motivated prosecution without even being an activist of the DCK. Through pro-government media, the investigation bodies create the image of them as 'guilty'. As a rule, details of criminal cases on terrorism are not disclosed in Kazakhstan. Still, the state propaganda bodies decided to use this case as a weapon. Perhaps, the authorities are using this as collateral estoppel for other cases, with the help of which they will try to discredit the opposition movement.

Abishev and Zhumagulov joined the list of Kazakhstani political prisoners. At the moment, more than 35 people have been subjected to politically motivated prosecutions in Kazakhstan, and at least 19 of them are behind bars.

The Open Dialog Foundation hereby calls on EU bodies, the European Commission, the EU and US diplomatic missions to send their representatives to visit Abishev and Zhumagulov in the detention facility, and to address the authorities of Kazakhstan with the following demands:

- To stop exerting pressure on and ill-treatment of Abishev and Zhumagulov in the detention facility.
- To initiate a change in the measure of restraint to one unrelated to detention.
- To allow independent doctors to enter the detention facility in order to provide high-quality medical assistance to Abishev and Zhumagulov; to provide Abishev with examination and treatment of heart problems in a public clinic.
- To bring to justice the officials who threatened Abishev and Zhumagulov and their family members and also refused to provide the arrestees with proper medical care.
- To take into account the facts which testify to the fabrication of the charges against Abishev

and Zhumagulov (in particular, regarding the part about the production of the video message), and to ensure an objective and fair consideration of the case in accordance with Kazakhstan's international obligations.

- To stop exerting pressure on other opposition activists in this criminal case, and remove any restrictive measures from them.

We hereby call on the European Commission, within the framework of the new partnership agreement between Kazakhstan and the EU, to launch a comprehensive monitoring of the conditions of detention of political prisoners in Kazakhstan, as well as informing the European Parliament and the international community about progress in negotiations with the Kazakhstani authorities with a view to freeing all political prisoners.

All those willing to support our demands are kindly requested to address the following persons and institutions:

- Head of the State Institution LA-155/1 of the Correctional System Department for the city of Almaty, A.A. Iztleuov – 050004, Almaty, 473 Seyfullina Street, phone: +7 (727) 279 58 76;
- Chairman of the Committee of the Criminal Executive System of the Ministry of Internal Affairs of the Republic of Kazakhstan, A. Kh. Bazylbekov - 010000, Astana, 2. B. Maylina Street 2;
- General Prosecutor of the Republic of Kazakhstan, K.P. Kozhamzharov – 010000, Astana, 14 Mangilik Yel;
- Chairman of the National Security Committee of the Republic of Kazakhstan, K.K. Masimov – 010000, Astana, 31/33 Kenesary Street;
- State Secretary of the Republic of Kazakhstan G.N. Abdykalikova – 010000, Astana, 6 Mangilik Yel;
- Ombudsman in the Republic of Kazakhstan, A.O. Shakirov – 010000, Astana, Left Bank, The House of Ministries.