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## Ukraine's Migration Service turns a blind eye to the political context of the criminal prosecution of Zhanara Akhmetova - Statement by Ukrainian human rights defenders

**Zhanara Akhmetova is a Kazakhstani journalist, one of the leaders of the opposition movement 'Democratic Choice of Kazakhstan' (DCK). For several years, Akhmetova and her minor son have been unsuccessfully seeking refugee status and, through this, political asylum in Ukraine. Numerous facts indicate that the Kazakhstani authorities prosecute Akhmetova for her journalistic and opposition activities. However, the Migration Service of Ukraine has refused to acknowledge the political context of her prosecution. We, the representatives of Ukrainian human rights organisations, would like to draw the attention of the public to the facts, which indicate that there are all grounds for granting protection to Akhmetova in Ukraine.**

Kazakhstan has placed Zhanara Akhmetova on the international wanted list in connection with a 'fraud' case. In 2009, a Kazakhstani court sentenced Akhmetova to seven years' imprisonment. The execution of the court sentence was postponed until her child reaches 14 years of age (i.e. until 2021).

Since 2013, Akhmetova has been actively involved in journalistic and opposition activities. There is reason to believe that Kazakhstan's authorities have begun to exert pressure on Akhmetova due to her activities. In early 2017, Akhmetova was subjected to administrative fines three times for '*posting calls for unauthorised meetings on Facebook*'. On this basis, the authorities of Kazakhstan unlawfully canceled the postponement of executing the court sentence in the 'fraud' case.

In March 2017, Akhmetova along with her minor son arrived in Ukraine in order to seek political asylum. The Kazakhstani authorities place her on the wanted list so that she would serve the court sentence for the 'fraud'.

We believe that the true motive for the prosecution of Zhanara Akhmetova is political. Akhmetova is one of the leaders of the opposition movement 'Democratic Choice of Kazakhstan'. In March 2018, a Kazakhstani court declared DCK an 'extremist' organisation. At the same time, on 14 March 2019, in its resolution on human rights in Kazakhstan, the European Parliament noted the peaceful nature of the DCK's activities.<sup>1</sup>

<sup>1</sup> [https://www.europarl.europa.eu/doceo/document/TA-8-2019-0203\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2019-0203_EN.html)

Based on the decision to ban DCK, in the period between 2018-2019, arbitrary detentions of participants in peaceful rallies, unprecedented in Kazakhstan's history, were carried out. During the period, more than 6000 people, including journalists and human rights activists, were detained.<sup>2</sup> More than 20 people have become victims of politically motivated prosecution.

In the indictments, Akhmetova is labelled the 'leader of a banned movement'. Reposts from Akhmetova's Facebook page have become a reason for the criminal prosecution of several Kazakhstani activists. This directly indicates that the Kazakhstani authorities have brought new charges of 'being a leader of an extremist organisation' against Akhmetova.

Several defendants in the case of the DCK<sup>3</sup> were subjected to torture and ill-treatment in Kazakhstan. They were demanded to testify about the activities of the opposition movement. It is obvious that Akhmetova, as one of the DCK leaders, would also face torture in Kazakhstan.

On 18 October 2017, the Migration Service of Ukraine denied the granting of refugee status to Akhmetova, citing that she was being prosecuted 'on the basis of non-political fraud charges'. Akhmetova challenged the decision of the Migration Service in court. On 27 March 2018, the court of first instance dismissed her appeal. However, on 31 July 2018, the Kyiv Court of Appeal<sup>4</sup> and on 17 September 2018, the Supreme Court<sup>5</sup> obliged the Migration Service to reconsider Akhmetova's application and take into account the information on her opposition and journalistic activities.

The Migration Service re-considered Akhmetova's application but did not recognise the fact of her politically motivated prosecution and, therefore, the threat which she would face upon her return to Kazakhstan, and on 22 December 2018, she again was denied the granting of asylum. The actions of the Migration Service constitute obvious abuse as the facts mentioned by the Appellate and the Supreme Courts have not been taken into account.

Zhanara Akhmetova again filed an appeal to the court, requesting a new consideration of her application for refugee status in Ukraine, but on 19 September 2019, the court of first instance dismissed her appeal.

On 14 January 2020, the Appellate Court will hold a session to issue a final decision on the reconsideration of Zhanara Akhmetova's application by the State Migration Service. The court decision will take effect immediately. Therefore, if Akhmetova does not get the opportunity for her application for the refugee status to be reconsidered by the Migration Service of Ukraine, the procedure for consideration of Kazakhstan's extradition request will resume immediately. At any moment thereafter she may be handed over to the Kazakhstani authorities.

In recent years, we have repeatedly recorded incidents of Ukraine's initiation of extradition procedures and assisting post-Soviet countries, such as: Russia, Kazakhstan, Azerbaijan, and Tajikistan in carrying out politically motivated prosecution. This is facilitated by Ukraine's membership in the Minsk Convention on Legal Assistance and the long-established informal close links between law enforcement agencies of those countries.

In 2017, in addition to Akhmetova, Ukraine arrested two other journalists - Fikrat Huseynov (on the basis of Azerbaijan's request) and Narzullo Okhunzhonov (on the basis of Uzbekistan's request). The efforts of the Ukrainian and international community have helped to prevent their extradition. Human rights defender Alovzat Aliyev also barely avoided extradition from Ukraine to Azerbaijan, although he had been granted refugee status. Striking examples are incidents of kidnapping and extrajudicial expelling of asylum seekers from the territory of Ukraine secretly, with the cooperation of special

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<sup>2</sup> <https://ru.odfoundation.eu/a/9515,spisok-kazahstanskih-politizaklyuchennyh-i-drugih-politicheski-presleduemyh-lic-obnovleno>

<sup>3</sup> Kenzhibek Abishev, Almat Zhumagulov, Ablovas Dzhumayev, Aset Abishev, Yerkin Kaziyev, Aset Nurzhaubay.

<sup>4</sup> <http://reyestr.court.gov.ua/Review/75728895>

<sup>5</sup> <http://www.reyestr.court.gov.ua/Review/76519299>

services, as was the case with Aminat Babayeva, Vladimir Yegorov (who were expelled to Russia), and Alexander Frantskevich (who was expelled to Belarus).

**Zhanara Akhmetova is being prosecuted for political reasons - for her expression of opinions and opposition activities. In Kazakhstan, she may face torture and an unfair trial. Under such circumstances, her extradition is inadmissible. This is mentioned, in particular, in the UN Convention against Torture, the UN Convention on the Status of Refugees, the European Convention on Human Rights, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters, the International Covenant on Civil and Political Rights. Ukraine is a party to these agreements. Therefore, Akhmetova's extradition would be a direct violation of Ukraine's international obligations.**

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