



OPEN DIALOG

REPORT

ON KAZAKHSTAN



Aktau judicial proceedings

*and defendants' testimonies of torture,
inflicted upon them during investigation*

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General Information

On the **16th of December 2011** in the city of Zhanaozen at approx. 10 a.m. local time on Independence Day, striking oil workers and their family members, who have been taking part in the protests since the 11th of May 2011, were dispersed by means of extreme measures in the form of the use of noxious gases, guns with rubber bullets as well as firearms and the deployment of armed special forces.

17.12.2011. The unrest in the town of Zhanaozen, Mangistau Province, spread to the railway station in the village of Shetpe of the same province. The villagers blocked the movement of passenger trains en route Mangyshlak-Aktobe, demanding a halt to the use of weapons against strikers in Zhanaozen.

17.12.2011. A state of emergency has been imposed in the whole region which will end on the 31st of January.

According to official numbers, 16 people were killed during the events on the 16th-17th of December.

25.01.2012. The General Prosecutor's Office of the Republic of Kazakhstan issued a statement on the events in Zhanaozen on the 16th of December, 2011. It is reported that six organisers of the riots were identified, namely: Talgat Saktaganov, Narym Dzharylgasinov, Ertai Irmukhanov, Maksat Dosmagambetov, Shabdal Utkilov and Roza Tulyetaeva. Also identified and arrested were 23 active members of the riots and 11 perpetrators of riots and looting. Most of them, according to the official version, confessed to organising of and participating in the mass riots.

Three people were indicted on charges of organising mass riots at the Shetpe station, namely: Gabiden Bakhytzhan, Nurbolat Sabirbaev, Bekbergen Zhilkishiev. Twelve other people were charged with participation in the riots.

Aktau trial proceedings – case of Zhanaozen disturbances 16-17th December

27.03.2012. The first court session is opened on criminal case in connection to the mass disturbances having transpired in the city of Zhanaozen on the 16-17th December 2011. The session was held in the building of the “Arman” centre, designed to host 300 persons; the journalists were located in a separate room, the use of video- and audio devices was forbidden. According to data by the Supreme Court of the Republic of Kazakhstan, a total of 37 defendants are listed in the present criminal case. The defendants were presented with charges of having organized mass disturbances involving violence, pogroms, arson, damage and destruction of property, robbery and theft as well as acts of violence against legal authority officials. Since the very first day, the courtroom was lacking in space to accommodate all the willing to either take part in the court case or observe it.

28.03.2012. Journalists were forbidden to conduct audio- and video recording of the court proceedings. Representatives of Stan.TV, KTK, Khabar and Reuters left the room. As sign of protest, the oil workers accused in the trial stood up from their places and remained standing in the course of over three hours.

28.03.2012. Two international observers were banned from the courtroom – representative of the “Zhanaozen-2011” international committee Maks Bokaev and OSCE court delegate, Chairperson of Atyrau “Zaman” NGO Asel Nurgazieva.

02.04.2012. In the course of the court proceedings it is revealed that the police officers whose testimonies are used to build the charges do not wish to appear in the courtroom. Their testimonies will be read out, and names changed to pseudonyms.

06.04.2012. Ardak Batyeva, barrister in the case, submits a notion for her client Talgat Saktaganov to be acquitted on all charges, as the police officer having given court testimony the day before (05.04.2012) in the character of an aggrieved party was, at the same time, investigator on a case versus Talgat Saktaganov. During the subsequent court session (09.05.2012), the judge deems court investigations versus the leader of strike movement Talgat Saktaganov null and void, however refusing to release the activist from custody.

Esengeldy Abdurakhmanov, open pulmonary tuberculosis carrier, not to be isolated from the remaining defendants

09.04.2012. During court session it was made known that the defendant Esengeldy Abdurakhmanov was carrier to open pulmonary tuberculosis. He had become infected with TB in the investigative seclusion cell, and was hence being held in a solitary chamber. When the court proceedings started, however, E. Abdurakhmanov was relocated together with the remaining defendants. Over the course of the criminal investigations, his illness aggravated further into the open infectious form. Abdurakhmanov’s barrister Alybyev petitioned the court for the preventive punishment to be exchanged for house arrest and his client given a chance to recover his health: “He is now experiencing severe pains in his chest. It is unsafe for the remaining 36 defendants as well. We have the medical data to support that: my client used not to be ill with tuberculosis before”. The prosecutors moved against the isolation of E. Abdurakhmanov and petitioned for the application to be left uninvestigated, explaining that the defendant is charged on two articles of the Criminal Code at the same time. After a number of days, judge Aralbay Nagashibaev refused the application on the basis of a diagnosis by a doctor, who stated to the court that Abdurakhmanov had been taking the tablets for over 60 days, therefore the spot in his lungs had decreased in size, and sputum analysis had proved to be negative. “He presents no threat to the surrounding and may be treated in the investigative seclusion cell of Aktau”, — the judge ruled.

Defendants' testimonies of torture in the course of investigation

Upon hearing the oil workers accused, the court case began to evolve much to everyone's surprise. One after one, the defendants in the case started talking of the atrocities they were made to go through during the investigation of Zhanaozen disturbances on the 16-17th December 2011. The accused oil workers state that their testimonies were extracted by means of force, threat and degrading treatment.

Testimony by Maksat Dosmagambetov (06.04.2012)

Dosmagambetov Maksat Romanovich, born 01.11.1982 in Mangystavsk district, Kazakh national, university education, married, dismissed for having taken part in the May 2011 protests, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house №63/113, "Orken" district, Zhanaozen. Accused under article 241, par. – 1,2 (organization of mass disturbances, participation in mass disturbances) and article - 321, par.-2 (acts of violence against legal authority officials) of the Criminal Code of the Republic of Kazakhstan.

On 06.04.2012, even before the court started the hearings of the defendants, one of the oil workers, Maksat Dosmagambetov, tried to make a statement in the court, claiming that during the investigations both himself and others were subject to physical torture, aimed at extortion of confession of one's or others' guilt: "When we were moved into the isolation cell, we were beaten, we were degraded, but the officers to whom we addressed our complaints would not do anything...". The judge did not let him finish, his refusal based on the assumption that the testimony was related to another case which would be examined later.

Testimony by Esengeldy Abdurakhmanov (10.04.2012)

Abdurakhmanov Esengeldy Turdymuratovych, born 14.04.1988 in the Republic of Uzbekistan, Kazakh national, secondary education, married, temporarily unemployed, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at №11 8-ya Street, Rakhat-2, Zhanaozen. Accused under article 241, par. 2 (participation in mass disturbances), and article 178, par. 2 (robbery and theft by group of perpetrators or upon a collusion) of the Criminal Code of the Republic of Kazakhstan.

Esengeldy Abdurakhmanov told of physical violence over the defendants. He became infected with the open form of pulmonary tuberculosis whilst held in the investigative seclusion cell. "I used to be a healthy man. This tuberculosis, I got it after my arrest, when on December 16th myself and others were apprehended, driven into the underground of the Zhanaozen police station, stripped of our clothes and poured over with cold water. Then every five minutes they would come and beat us. Then they poured cold water over us again, held us naked on the cold floor. Some fat man would come and jump on us with his feet, this went on for some hours. And then I fell ill real bad, as there was no help shown round, and on December 27th, when I started to feel real bad, I asked them to call an ambulance" – E. Abdurakhmanov stated in the courtroom.

Testimony by Tanatar Kaliyev (11.04.2012)

Kaliyev Tanatar Dzhaylganovich, born 18.05.1964 in the republic of Turkmenistan, Balkanskaya region, Kazakh national, secondary education, married, temporarily unemployed, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house №67, "Rakhat" district, Zhanaozen. Accused on article 241, par. 1,3 (organization of mass disturbances, inciting to active disobedience to legal demands by authority officials) of the Criminal Code of the Republic of Kazakhstan.

Tanatar Kaliyev, whose testimonies against Talgat Saktaganov and Roza Tulyetaeva, activists of the strike movement, were the basis of the indictment against the oil workers, suddenly and unexpectedly revoked his previous statements, having said that he had given them under heavy pressure. "Yesterday I was ill. Even now I'm feeling bad, as ever since I was apprehended in Zhanaozen on December 18th and beaten ruthlessly during my numerous interrogations, my health has broken down. Interrogations were

conducted under severe physical and mental pressure, I was beaten with a stool on the head, threatened with possible problems for my elder son. When they started asking me, I was trying to tell the truth – that none of the defendants had anything to do with the uprising... I was apprehended out of the street and brought in for interrogations. There, I literally stood in blood – the whole floor besmeared with blood. Interrogations took days on end, I was deprived of sleep. There was no lawyer. They were deceiving me, telling me if I said what I was told to, I would go home and my family would be all right. I asked them, begged them, cried. I did not feel guilty of anything. Yesterday's testimonies, the ones read out by the prosecutors – I take them back, as they were extracted by torture. I had to agree to testify this, because I had thought there would be a trial, and I would tell the whole truth to the court, and the court would believe me. I had not hoped they would listen to me during the interrogations, I was just scared... I want to say, I refuse to confirm all the testimonies given to the investigators as a result of physical and mental pressure. It was all done by deceit!»

Testimony by Shabdal Utkilov (11.04.2012)

Utkilov Shabdal Mendikhanovich, born 29.12.1971 in Mangystaysk district, Kazakh national, secondary education, married, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house №5, №7 Street, Rakat-2 district, Zhanaozen. Accused under article -241, par. -1 (organization of mass disturbances) of the Criminal Code of the Republic of Kazakhstan.

Defendant Shabdal Utkilov did not come to deny his participation in the mass unrest in Zhanaozen in December 2011: "The military were attacking us with batons, with rifles. **What do you think, what were we supposed to do, when you're there, unarmed, and there's armed people coming at you? The only thing that was left, grab stones in hand and defend...** I regret many people have died, but I do not regret standing in the square and defending my worker's rights". He also stated, that during the investigation he was subject to physical violence: "That something really horrible, unimaginable for an ordinary human conscience. There were many investigators... They put plastic bags on our heads and suffocated us. One of them, Kulubayev Rashid, told me: "You will say you prepared the incendiary cocktails". He would put a tie on my neck and hang me up. Then he took a plastic bag he had choked me with, stuffed it in my mouth, covered my nose and said he would smother me dead if I did not take all the blame... The kind of torture they put us through, I've not even heard of it in my life. These people did to us whatever they wished". The testimonies were written by the police officers instead of the persons accused, and the oil workers were only made to sign whatever was written. "Everything was written by the investigators from Astana, we did not get to read these testimonies. They told me "Sign it all". I don't even know some of these testimonies!" – Shabdal Utkilov said in court.

Testimony by Roza Tulyetaeva (16.04.2012)

Tulyetaeva Roza Aytbayevna, born 10.12.1964 in the republic of Turkmenistan, Balkanskaya region, Kazakh national, secondary-specialist education, married with three children, leader of strike movement in Mangistau, dismissed for participation in the May 2011 protests, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house 25/18, 4th district, Zhanaozen. Accused under article 241, par. 1,2,3 (organization of mass disturbances, participation in mass disturbances, inciting to active disobedience to legal demands by authority officials) of the Criminal Code of the Republic of Kazakhstan.

Roza Tulyetaeva (46), leader of the strike movement of oil workers, informed of severe torture she was subject to: during the interrogations she was suspended by her hair, suffocated with a garbage bin lining bag and had her intestine prodded with an iron rod; she was promised "her 14-year-old daughter's life can easily be broken". "I am asking for an investigation to be started on the torture I was subject to during the interrogations. I cannot say much... My family, my relatives are here, I feel ashamed to say what they did to me... There are things one is ashamed to say" – Roza Tulyetaeva said.

Testimony by Parakhat Dusembayev (17.04.2012)

Dusembayev Parakhat Bekeszhonovich, born 07.09.1989 in the republic of Turkmenistan, Balkanskaya re-

gion, Kazakh national, secondary education, married, temporarily unemployed, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house №4/6, Shugyla district, Zhanaozen. Accused under article 241, par. 2,3 (participation in mass disturbances, inciting to active disobedience to legal demands by authority officials) of the Criminal Code of the Republic of Kazakhstan.

Parakhat Dusembayev: "I was summoned to City Department of Internal Affairs, to colonel Kydyraliyev. He yelled and said he would do me in for the arsons. He started hitting my head against the wall. My hands were tied behind my back. They pulled my trousers down, and he said he would put a glass jar up my rear end. He started beating my bottom, the groin, the sides... I began crying and told him my father had died, I had a wounded sister, begged him not to do it. Even afterwards, having left the hospital, I couldn't walk for a long time..."

Testimony by Zhanbyr Ergazyev (17.04.2012)

Ergazyev Zhanbyr Sabiyevich, born 04.11.1968 in the republic of Turkmenistan, Balkanskaya region, Kazakh national, secondary education, married, citizen of the republic of Kazakhstan, no previous criminal record, domiciled at house 3/16, 3rd district, Zhanaozen. Accused under article 241, par. 2,3 (participation in mass disturbances, inciting to active disobedience to legal demands by authority officials) and article -321, par. -2 (acts of violence against legal authority officials) of the Criminal Code of the Republic of Kazakhstan.

Zhanbyr Ergazyev suffered a bullet wound to the leg after the police opened fire. Afterwards he was transported to hospital, the wound was dressed and he was released. After some time, he was forced to go to hospital again, as the wound had started festering. "I was having my wound dressed, when the police came for me to the hospital. and took me away. I was in the City Department of Internal Affairs without any medical assistance. The wound was festering, the blood was running – all my clothes in blood and pus. Everything the policeman said – these are all lies! That I supposedly threw stones, that I was running around the *akimat* (i.e. city authority office) attacking the police. Lies all of it! I got the bullet as early as the *alan* (i.e. the square) and was taken to hospital!"

Testimony by Zhanat Murinbaev (17.04.2012)

Murinbaev Zhanat Amaniyazovich, born 01.11.1982 in the republic of Turkmenistan, Balkanskaya region, Kazakh national, secondary education, married, temporarily unemployed, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house №34/34, "Samal" district, Zhanaozen. Accused under article 241, par. – 2,3 (participation in mass disturbances, inciting to active disobedience to legal demands by authority officials) and article - 321, par.-2 (acts of violence against legal authority officials) of the Criminal Code of the Republic of Kazakhstan.

When at the prosecutor's office, Zhanat Murinbaev was shown a photograph of Shabdala Utkilov and told to provide evidence against him. When Zhanat Murinbaev refused, the prosecutor's investigator Avezov Kaldybay beat him. The same was done also by other prosecutor's office employees, who beat him wearing masks.

Testimony by Serik Akdzhigitov (17.04.2012)

Akdzhigitov Serik Kelidykhanovich, born 01.11.1979 in Balkanskaya region of the republic of Turkmenistan, Kazakh national, secondary education, married, temporarily unemployed, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at 2-8/9-58, Zhanaozen. Accused under article 241, par. – 2,3 (participation in mass disturbances, inciting to active disobedience to legal demands by authority officials) and article - 321, par.-2 (acts of violence against legal authority officials) of the Criminal Code of the Republic of Kazakhstan.

Akdzhigitov Serik came to CDIA of his own volition to testify, and was accused of having resisted the police. "It was not me rocking the police UAZ vehicle. The car nearly ran us over. The policemen typed the text themselves in the Kazakh language, and I was only told to sign it. I did. I do not speak Kazakh, so I asked them to give me a translator, so I don't know the details of what I signed!" - said Serik Akdzhigitov.

Testimony by Islam Shamilov (17.04.2012)

Shamilov Islam Talapuly, born 16.08.1992 in Mangistausk region, Kazakh national, single, secondary education, temporarily unemployed, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house 21, 9thb Street, "Rakhat" district, Zhanaozen. Accused under article 241, par. 2 (participation in mass disturbances) and article 321, par.2 (acts of violence against legal authority officials) of the Criminal Code of the Republic of Kazakhstan.

On December 16th, the juvenile Islam Shamilov came to the Zhanaozen square together with his mother to see the festivities. When shots were fired, he was wounded on the leg. "For 29 days I lay at home in pain, when I couldn't take it any more, I went to the doctor. At once people came from the prosecutor's office and took my testimony, told me to come to their office the next day. My mom waited in the street. I wrote a note of explanation, they showed me some paper and demanded me to sign it. I did. I got jailed for 4 days. Afterwards they tried me, and the judge gave me a sentence of 2 months. My family were not invited to the hearing. I was slandered, there was no face-to-face identification, I didn't see any witnesses. I was promised that I would be set free on an amnesty. They showed me another paper and told me to sign it. I didn't even read the paper. I signed it, because they promised they would let me go to my mom. They framed me into everything. They said "If you don't take it on yourself, you're never going out, so you have to take it". I'm innocent! And here I am, in jail. So, like, I don't get it, why am I in jail? What did I get shot for? I don't work for "Ozenmunaygaz", no-one of my family works in the oil industry. I wasn't there with the strikers. I didn't see anyone bearing arms ant the square. There were oil workers standing there. I didn't see who was it that set the fire" - says Islam Shamilov.

Testimony by Bavyrzhan Telegenov (17.04.2012)

Telegenov Bavyrzhan Bazarbayevich, born 09.06.1985 in the Mangistausk region, Kazakh national, secondary education, married, works as drill-operator assistant at TOO "Burenye", citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at №18 Baltabas Street, Tenge municipality, Zhanaozen. Accused under article 241, par. 2 (participation in mass disturbances) and article 321, par.2 (acts of violence against legal authority officials) of the Criminal Code of the Republic of Kazakhstan.

Bavyrzhan Telegenov accidentally happened to be on the square at the time of the rioting. He was severely wounded and regained consciousness only when already being transported to resuscitation. He had no connection to the strikes whatsoever, as he works as drill operator at the "Byrlygau" limited liability company (oil services company). He was approached by officers from CDIA (City Department of Internal Affairs), saying he would act as witness on the case, but then he was accused of allegedly having thrown stones at the police during the mass disturbances.

Testimony by Kayrat Edilov (18.04.2012)

Edilov Kayrat Amankosovich, born 20.06.1989 in the Republic of Turkmenistan, Kazakh national, secondary education, divorced, temporarily unemployed, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at Abay-1/1, Munayly, Zhanaozen. Accused under article 241, par. 2 (participation in mass disturbances) and article 317 (acts of abuse versus the national flag) of the Criminal Code of the Republic of Kazakhstan.

At the National Security Committee office Kayrat Edilov was told to incriminate 15 persons, in return he would be put under article 100 of the Code of Criminal Procedure of the Republic of Kazakhstan (witness protection). Edilov refused. After that he started to be beaten. Six times he was suffocated by having a plastic bag placed over his head. He was threatened with being raped, with photographs being placed on the Internet. Investigator Bakyt Mendybaev put a gun to Edilov's head several times, swore to have him fed to the dogs.

Testimony by Zharas Besmagambetov (18.04.2012)

Besmagambetov Zharas Anshibaevich, born 19.02.1979 in Mangistausk region, Kazakh national, secondary

education, married, temporarily unemployed, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house №8, K. Nadirbaeva Street, Tenge municipality, Zhanaozen. Accused under article 241, par. – 2,3 (participation in mass disturbances, inciting to active disobedience to legal demands by authority officials) and article - 321, par.-2 (acts of violence against legal authority officials) of the Criminal Code of the Republic of Kazakhstan.

As Zharas Besmagambetov has it, the police filled in the protocols themselves and demanded him to sign them. He was made to write an affidavit stating he knows Roza Tulyetaeva. Besmagambetov also spoke of physical violence, which was used against the oil workers accused: "We were led into a chamber – they called it the press-shack. They did whatever struck their fancy to us there. A couple of them falling upon a single man. It gave them pleasure to beat us. They would leave pleased and satisfied. After what they did to us, you would sign whatever they gave you, you would confess everything, even homicide... We were called in for interrogations by night. When we asked to call an ambulance, they would shout back "We haven't got the keys to the cells". So we signed these testimonies of ours...».

Testimony by Samat Koyshibayev (18.04.2012)

Koyshibayev Samat Amankeldevich, born 16.09.1990 in Mangistausk region, Kazakh national, secondary education, unemployed, single, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at 12/2, 1st district, Zhanaozen. Accused under article 241, par. – 2,3 (participation in mass disturbances, inciting to active disobedience to legal demands by authority officials) of the Criminal Code of the Republic of Kazakhstan.

Samat Kojshibaev spoke of the attempts to make him cooperate with the investigators: "They started to convince me to collaborate. They would send me over to the oil workers, they said, for me to tell them how I was beaten up, so they would start talking and I would learn of their plans. I refused, they beat me again... I demanded a lawyer, even wrote an application. The tore it up in front of my eyes».

Testimony by Ertay Irmukhanov (18.04.2012)

Irmukhanov Ermay Aslbekovich, born 11.11.1985 in Mangistausk region, Kazakh national, secondary education, married, employed in TOO (limited liability company) "Zhondey", citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at 5-69-7 Zhanaozen. Accused under article 241, par. – 1,2,3 (organization of mass disturbances, participation in mass disturbances, inciting to active disobedience to legal demands by authority officials) of the Criminal Code of the Republic of Kazakhstan.

Ertay Irmukhanov, employee of TOO "Zhondey", is accused of allegedly having set fire to the *yurta* tents. He was not present at the square when the mass disturbances were taking place. "On December 19th I set off to work. Put my gear on, went to the stop, got on the bus. Three military came over, showed their IDs, dragged me out of the bus and brought over to Head Bureau for Internal Affairs. There, they started beating me. Chained me to a radiator, banged my head against the wall. Wanted me to confess to having robbed ATMs and other facilities. I kept refusing. They told me "Then we'll plant drugs in your home and do your whole family in".

Testimony by Adilbek Shamov and Esengeldy Abdurakhmanov (18.04.2012)

Shamov Adilbek Abybullayevich, born 01.05.1987 in the Republic of Uzbekistan, Kazakh national, secondary education, married, works as security officer at TOO "Nurbolat Kuzet", citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house №117, 23rd Street, Rakhat-3, Zhanaozen. Accused under article 241, par. – 2 (participation in mass disturbances), article 178 par. 2 point "c, d" (robbery and theft by group of perpetrators or upon a collusion)) of the Criminal Code of the Republic of Kazakhstan.

Abdurakhmanov Esengeldy Turdymuratovich, born 14.04.1988 in the Republic of Uzbekistan, Kazakh national, secondary education, married, temporarily unemployed, citizen of the Republic of Kazakhstan, no previous criminal record, domiciled at house №11, 8th Street, Rakhat-2, Zhanaozen. . Accused under article

241, par. – 2 (participation in mass disturbances), article 178 par. 2 point "c ,d" (robbery and theft by group of perpetrators or upon a collusion)) of the Criminal Code of the Republic of Kazakhstan.

On December 16th, approximately 8-9 PM, whilst driving down the street, the defendants Adilbek Shamov and Esengeldy Abdurakhmanov found a number of boxes with kitchenware, which they promptly picked up. Afterwards they were apprehended by persons unknown, who, threatening the former with handguns, made them stop the car, leave the vehicle and lie on the ground face down. The defendants were subsequently beaten, handcuffed and brought over to the CDIA. Abdurakhmanov presumes the boxes were left in the street on purpose - as pretext to detain persons picking them up. Shamov and Abdurakhmanov were subsequently stripped of their clothes and, still handcuffed, severely beaten. The beating was intense, interrupted by showers of cold water. Shamov was beaten by a number of men at the same time, as he was distinguished by his imposing stature. As it became clear, Shamov is a heavy-weight sportsman, champion of Kazakhstan, bronzewinner of Asia, who at the time was preparing for the London Olympics.

Reports of physical violence and abuse they were victims to were also filed by **Zharas Besmagambetov, Sisen Aspentaev, Zhenis Bopilov, Samat Koyshibaev, Rasul Mukhammedov**. All of them said they were victims to degrading treatment, torture and beatings during their detention. They all refused to confirm the larger part of the testimonies they were presented with in the investigation, as, in their words, these were given under threats to have them sent to the so-called "press-shack", where, in the words of the police, a number of masked men were beating up the detainees until the latter consented to any of their demands.

After a number of days of the accused oil workers' interrogations, judge Aralbay Nagashibaev stated: information on torture would be submitted to the prosecutor's office of the Mangistausk region. The answer was due as early as in a few days.

3.05.2012. During a following court session, the prosecutors submitted a notification, stating the refusal to instigate a criminal case with regards to the behavior by the police officers: "The facts of torture which are mentioned by the defendants in their letters to the prosecutor's office, demanding a legal assessment of the actions by the police officers, have been disproven. The motion to instigate a criminal case on their bases – rejected".

Witness statements on torture

At the Aktau trial, witnesses, one after another, renounced their testimonies given during the investigation, and stated that they had been subjected to physical as well as psychological abuse.

23.04.2012. Yerlan Nurzhanov, an employee of the 'Semser' security company, renounced his testimony and said: 'I slandered my colleague Mels Sarybaev after I was beaten and threatened ... They started to beat me, first - in the car, then - in the prosecutor's office. They threatened to use an electric taser on me or lock me up in the temporary detention facility ... But if I agreed to give false evidence, I was promised that Article 100 of the Criminal Procedure Code (protection of witnesses) would be applied in my case, and my name would not be revealed'.

23.04.2012. Berden Kozhambardiev also renounced his testimony and told the judge what he had to go through in the Main Department of Internal Affairs: 'I renounce my testimony given during the investigation... In the MDIA of Zhanaozen masked men asked me, 'What happened on the 16th of December?' I replied, 'I know nothing'. They started to beat me. Then they asked me if I knew Yertay Ermukhanov. They said that we both were robbing ATMs. I denied it. They started to beat me harder. They put plastic bags on my head... I was frightened, I did not know where to go or to whom I should complain about it. I signed the protocol of interrogation, slandering Yertay'.

23.04.2012. When evidence was being taken from Berdibek Batyroev, an oilman, a pen was put between his fingers and his fingers were twisted: 'They used a pen to twist my fingers so hard that they almost

broke them, afterwards they beat me... They questioned me, one after another. And they also beat me one after another. I was confused and did not know anymore to whom I should speak and what I should say. When signing the witness statements, I did not know what was going on anymore. Investigators threatened me, saying that if I did not say what they wanted, they were going to 'do something to my wife, and my children would be in trouble, too».

23.04.2012. A witness Bauyrzhan Tolkulov said that in the prosecutor's office violence was used against him, but he does not consider it battery: 'I do not know what other people experienced, but I was struck in the abdomen just once, they probably wanted to frighten me. But I do not consider it a case of battery'.

24.04.2012. An anonymous witness who goes under the pseudonym 'Alpysbayev Kairat' retracted his testimony and admitted that he was forced to slander the oil workers. The real name of the witness is Alexander Bozhenko (a pupil of the children's home, an orphan who has been recently adopted). Alexander Bozhenko testified against Zhanat Murynbayev, with whom he is acquainted. Addressing Zhanat Murynbayev, Alexander Bozhenko said: 'Zhannat, my brother, please forgive me. I swear I wanted to tell the whole story truthfully. But I was forced to give false evidence. On the 18th of December I was caught, taken to the police station, then beaten and tortured. I know you, I know your family, I suffered for two months, I wanted to hang myself. I will do everything I can so that you do not go to prison!'.

25.04.2012. A witness, Dorskali Atyrau, who testified against Samat Koyshibaev, said that during the interrogation, an employee of the prosecutor's office threatened him with prosecution, if it did not provide the evidence that the prosecutor needed.

25.04.2012. In the courtroom, on the initiative of lawyers, a witness Yerlan Zhailykhanov was examined. It turned out that this witness has already testified in court on the 24th of April, 2012 under the pseudonym 'Almaz Orazbayev'. He stated that he renounces the previously given testimony and told the judge what he had to go through in the police department during the investigation: 'I was taken to the police station on the 27th of December. They threatened me and beat me there... I was released at 3 a.m. I shivered in the night from fear and cold, I could not regain my senses. I asked the investigators: "Where will I go now? You know it is curfew time'. While I was going home, I was captured by the soldiers. And they locked me up, then I was beaten by people wearing masks. In the morning I was released. A day later I was taken from my house again and forced to sign some papers. Then they would take me from my house from time to time, threaten me and tell me that if I did not sign or do something that they wanted me to do, they would put me in prison. I was afraid to leave home ... In the prosecutor's office they showed me photos and gave me names. They said: 'Show them'. And I have known Yertay Ermukhanov for a long time, he is a good guy. The others I barely know, maybe I have seen them a couple of times; I recognised them in the photos laid out'.

26.04.2012. Alexander Bozhenko was questioned again; he had already testified on the 24th of April, 2012 under the pseudonym 'Alpysbayev Kairat' against Zhanat Murynbayev. At the trial, he described the circumstances under which his interrogation was carried out in the police department: "'On the 18th of December, I left my house and went to the shop to buy bread and soda. Near the entrance to my house I was attacked by riot policemen. They knocked me to my knees and began to beat me. They were speaking in a Chimkent dialect. Then they pushed me into the van. Inside, they continued to beat me with batons. They brought me to the police department, where they made me take off my shoes. I made to stand in a garage on the cold floor without my shoes on until the evening. I was beaten and they forced me to slander Zhanat. They broke my wrist. There is an X-ray which confirms this. My head still hurts. I don't know the names of those who beat me. Aside from me, I remember that Anatoly Sergeyevich Sekeev was also in the garage. I know him and can identify him by appearance. I was taken to the prosecutor's office. There were workers of the prosecutor's office in Astana there. In the prosecutor's office they beat me in the kidneys. I told the guard about this, but he said that he is not responsible for the

worker who beat me. Zhanat, please forgive me. My testimony was written by the investigator. On the 20th, I was released from the detention facility after I signed this testimony. Later, I was ordered to come again. I saw people lying on the floor in the detention facility. They said that it was Nazarbaev's order to beat us!"

02.05.2012. During the examination of the witness Elzhas Onerov (the investigator of the Investigative Committee of Aktau), Maksat Dosmagambetov stated that he was involved in the torture of the defendants. 'You saw me! You saw how they were beating me! You saw how they were piercing my ears with a stapler!' - said Maksat Dosmagambetov.

End of trial on the case of riots in Zhanaozen

On Monday, the 4th of June, 2012, during the trial concerning the riots in Zhanaozen on the 16th and 17th of December 2011, 36 sentences, of 36 out of 37 defendants, were read. By decision of the Court, 13 defendants received prison terms ranging from 3 to 7 years' imprisonment. The rest of the defendants – oil workers, were granted amnesty, were acquitted or received deferred sentences. Judge Aralbai Nagashi-baev could not announce the decision to Murat Kosbarmakov. People, dissatisfied with the decision of the court, threw shoes and plastic bottles at him. Only later the information was spread that M. Kosbarmakov was sentenced to three years in prison. Below is the full list of defendants and the sentences issued against them.

Roza Tulyetaeva - 7 years' imprisonment.

Maksat Dosmagambetov - 6 years' imprisonment

Naryn Dzharilgasinov - 6 years' imprisonment.

Kanat Zhusipbaev - 6 years' imprisonment.

Zhabdal Utkilov - 5 years' imprisonment.

Tanatar Kaliyev - 4 years' imprisonment.

Talgat Saktaganov - 4 years' imprisonment.

Nurlan Askaruly - 3 years' imprisonment.

Marat Aminov - 3 years' imprisonment.

Kairat Edilov - 3 years' imprisonment.

Zharas Besmagambetov - 3 years' imprisonment.

Bauyrzhan Nepes - 3 years' imprisonment.

Murat Kosbarmakov – 3 years' imprisonment.

Mels Sarybaev – acquitted.

Yertai Irmukhanov - acquitted.

Zhenis Bapilov - acquitted.

Karl Bekzhanov - 2 years' imprisonment. Released under amnesty.

Aibek Munaitpashev - 2 years' imprisonment. Released under amnesty.

Danat Murinbaev — Released under amnesty.

Adilbek Shamov - 3 years' imprisonment. Released under amnesty.

Esengeldy Abdurakhmanov - 3 years' imprisonment. Released under amnesty.

Zhanbyr Yergaziyev - 2 years' suspended prison sentence.
Parakhat Dusenbaev — 2 years' suspended prison sentence.
Zhanaidar Utebekov - 3 years' suspended prison sentence.
Sisen Aspentaev - 3 years' suspended prison sentence.
Muratbai Dzhumagaliyev - 3 years' suspended prison sentence.
Samat Koishybaev - 3 years' suspended prison sentence.
Rasul Mukhammedov - 3 years' suspended prison sentence.
Islam Shamilov - 3 years' suspended prison sentence.
Bauyrzhan Telegenov - 3 years' suspended prison sentence.
Nursultan Mukashev - 3 years' suspended prison sentence.
Zhiger Amanzholov - 3 years' suspended prison sentence.
Aizhan Duisenbaeva - 3 years' suspended prison sentence.
Salamat Isakov - 3 years' suspended prison sentence.
Anuarbek Tadzhenov - 3 years' suspended prison sentence.
Kairat Koishibaev - 3 years' suspended prison sentence.
Serik Akzhigitov - 3 years' suspended prison sentence.

It is important to note that this decision of the court is somewhat ambiguous. First, the most severe punishment was given to those defendants who have publicly commented on what was happening during the strike of oil workers. For example, Rosa Tulyetaeva was one of the main activists and advocates of the striking oil workers, Talgat Saktaganov traveled at the invitation of Foundation «Open Dialog» to a meeting of the European Parliament and the OSCE, Tanatar Kaliyev was among the first in the trial who publicly made a statement on the torture of the defendants during the investigation. Secondly, the recognition of oil workers as guilty of inciting riots in Zhanaozen in December 2011 contradicts the sentence in the case of police officers who shot against protesters: when reading out the verdict, the judge noted that she agreed with the position of the prosecutors and the court found that the video of the December riots shows that police officers were not attacked, and therefore, the use of weapons was unjustified. In fact, during the trial in the case of the police officers the court admitted that the December riots began by no fault of the striking oil workers.

The trial of police officers involved in the shooting at demonstrators in Zhanaozen

27.04.2012. In the regional court of the city of Aktau, a trial was initiated on charges of abuse of power by the police with the use of weapons, which caused loss of lives during the Zhanaozen events in December 2011. Criminal charges were brought against five policemen:

- Deputy Head of the Department of Internal Affairs (DIA) of the Mangistau Region, Kabdygali Utegaliyev;
- Head of the Department for Combating Extremism (DIA), Bekzhan Bagdabaev;
- Deputy Head of the Department of Internal Affairs (SIA) of the city of Zhanaozen, Erlan Bakytkaliuly;
- Detective Officer (DIA) of the Mangistau Region, Rinat Zholdybaev;

Senior Investigator (SIA) of the city of Zhanaozen, Nurlan Esbergen.

The trial was presided over by Judge Gulmarzhan Adilsultani. The police officers were accused under paragraph "b" Part 4 Art. 308 of the Criminal Code of the Republic of Kazakhstan (*abuse of power or official authority to use weapons or special devices*). The accused policemen stated that they disagree with the indictment, which was brought against them. As in other trials regarding the Zhanaozen events, the press was allowed to register video materials and take pictures only at the beginning of the meeting.

03.05.2012. Nurlan Ayazbaev, one of the wounded during the events of December 16 in Zhanaozen brought to the courtroom, as material evidence, the two bullets that doctors removed from his body. Judge Gulmarzhan Adilsultani refused to attach them to the case of the victim, justifying his refusal with the fact that the bullets should have been presented earlier to the investigators. It was not the first time when in the trial of police officers those injured provided evidence in the form of bullets, with which protesters were injured or killed. Duysekenov Hassan, the father of the killed Atabergen Duysekenov, made a ballistic examination of bullets, which he took from his son's body. Examination showed that he was shot with a Makarov pistol, released in 1953. The expertise proved that the gun belongs to the Deputy Chief Constable of the Police of the City of Zhanaozen, Yerlan Bahytkaliuly, who stands trial for abuse of power.

04.05.2012. The witness Nurken Zhanalbekov told the court that the use of weapons during clashes of December 16, 2011 between the police and demonstrators was ordered by the deputy head of the Department of Internal Affairs (DIA) of the Mangistau Region, Colonel Kabdygali Utegaliyev. The witness Abdrasula Uteshev (Deputy Head of the Department of the Internal Affairs of the Munaylin District of the Mangistau Region) also confirmed that the consolidated police force that fired at the demonstrators on December 16, 2011 was under the command of Kabdygali Utegaliyev.

08.05.2012. During the trial, the interviewing of witnesses and police officers continued. Their testimonies were very similar: when being asked questions that might shed some light on what happened, they answered "I do not remember exactly," "I forgot" or "I do not know." Witnesses and police officers defended their position that their actions during the riots were in self-defense. "They threw stones, gas cylinders at me from the distance of approximately 20 meters. I had to defend myself" - testified the policeman, Janat Koyshigulov. **Also, the police officers said that they started to arrive at Zhanaozen on December 14th, that is, two days before the riots in Zhanaozen.**

10.05.2012. The witness, a police officer, Maksat Moldabayev, admitted in the courtroom **that he lied during the investigation** when he said that he shot twice from a Makarov pistol. In fact, during the riots in Zhanaozen he did not have firearms, but only a shield and a bludgeon. **He was asked to lie during investigation by his superiors:** "When a report was being prepared, it turned out that the number of bullets issued and handed back is not reconciled, so my superior asked me to say so. All the bullets I took were returned during the inventory" - said Maksat Moldabayev. The witness Chigankov, Inspector of the SWAT

DIA (Special Rapid Reaction Division of the Department of Internal Affairs) of the Mangistau Region, said during interrogation that they left for Zhanaozen on December 14th.

11.05.2012. One of the policemen (named Kazykululy) admitted during the interrogation as a witness that he shot at people in the area of Zhanaozen - he shot all 30 bullets, which were in the magazine. However, he clarified that shot mostly in the air and only a few bullets at the "hooligans", trying to hit their legs.

28.05.2012. The accused police officer, **Kabdygali Utegaliyev**, told the court that all that happened on December 16, 2011 in Zhanaozen was watched online in the city of Aktau by the regional DIA leaders. This fact allows us to exclude the version that the authorities did not know about the shooting which took place in Zhanaozen, on the contrary, they prepared for it.

During the riots in Zhanaozen police officers were issued unregistered weapons

04.05.2012. The witness Erlan Akmukanov (traffic officer) said during interrogation that during the December events in Zhanaozen, he had an unregistered weapon, and the First Deputy Head of the DIA of the Mangistau Region, Yerzhan Sadenov, confirmed that out of 29 automatic guns taken by the police officers, 8 were unregistered. The witness Marat Agizbaev, who currently works for the Zhanaozen Juvenile Care Inspectorate, told the court that the weapons started to be given out to the police officers still on December 6th. When Agizbaev was asked why he carried a gun, he replied that there was a specific instruction issued by the management, but he declined to specify the names and positions of the leaders who gave such an order.

During the questioning of witnesses it also became known that not all the weapons, which were given to the police, were returned back. Duty police officer, Mukhambet Kaziyev, responsible for the issuance of weapons during the riots in Zhanaozen, said that **from December 16th, police weapons were given out to the policemen without registration and without confirmation of receipt:** *"In total, 29 Kalashnikov assault rifles and 224 Makarov pistols were given out and approximately 50% of the weapons issued were not returned."* His deputy, Kuanysh Sisenbay, confirmed the words of his chief, **"Kaziyev gave me the keys to the armory room and said, "Give a weapon, if anyone asks."** No documents were drawn up in which it would be registered".

The end of the court case initiated against police officers

28.05.2012, the court in Aktau found guilty, the five police officers accused of shooting at the demonstrators in Zhanaozen on December 16, 2011. According to the verdict, the defendants were convicted under the item "b" Part 4, Article 308 (abuse of power or official authority with the use of weapons or special devices) of the Criminal Code and received the following penalties:

Kabdygali Utegaliyev (former deputy head of the Department of Internal Affairs (DIA) of the Mangistau Region, police colonel) - 7 years imprisonment;

Bekzhan Bagdabaev (former Head of Counter-Extremism Department of the DIA, Police Lieutenant Colonel) - 6 years imprisonment;

Rinat Zholdybaev (former Detective Officer of the DIA, Police Lieutenant) - 6 years imprisonment;

Erlan Bakytkaliuly (former Deputy Head of the Department of Internal Affairs (DIA) of the city of Zhanaozen, Police Major) - 6 years imprisonment;

Nurlan Esbergenov (a former Senior Investigator of the OIA of the city of Zhanaozen, Police Captain) - 5 years imprisonment.

The judge Gulmarzhan Adilsultani noted in the findings of the judgment that during the trial court, based on the submitted video materials the following facts were established: the police officers did not fire into the air but they fired at the people fleeing, and finished them off with batons. None of the convicted police officers admitted his guilt. The judge's decision in the case of the police officers is contradictory to the decision of the judges in the case on the disorders in Zhanaozen, where the blame was put on the members of the strike movement and city residents, who were arrested in December 2011 on the main square in Zhanaozen, which is a blatant example of double standards and selectivity of "justice".

The court trial regarding riots at the Shetpe station

17.04.2012. In the city of Aktau, in the building of the Center for Adaptation of Repatriates, the trial began in a criminal case "regarding the riots at the Shetpe station." 12 people were involved in the case as defendants. The trial was chaired by the judge Berdybek Myrzabekov. The journalists were let in the courtroom, only for the first 10 minutes, after which they were asked to go to a special room for journalists. On the first day of the court session it became known that two of the defendants had no lawyers, one of which is occupied by the trial regarding the events in Zhanaozen, the second is on a business trip in Astana.

02.05.2012. **During the questioning of witnesses, two boys abandoned their testimony.** According to the word of the police officers who were videotaping on December 17, 2011 there were two boys next to them. In turn, the boys said they were not next to the police officers when they were recording, and the text of the testimony was written by law enforcement officers instead of them.

21.05.2012. The trial was finished. The defendants were found guilty. The judge Berdibek Myrzabekov, in the findings of the judgment stated that the defendants incited the riots on December 17th in Shetpe and shouted, "Aday, Alga" ("Adaytsy, go ahead!"), "Nazarbayev - ketsin!" ("Nazarbayev - let him leave! "). 12 defendants were sentenced to various prison terms, the six of them were amnestied and one - acquitted:

Kazhimurat Avezov - 7 years imprisonment;

Gabiden Bakhytzhhan - 5 years imprisonment;

Yerzhan Mambetov - 5 years imprisonment;

Nurbolat Sabyrbayev - 4 years imprisonment;

Kasim Ermukanuly - 2 years imprisonment, suspended;

Esenkos Durysbaev - amnestied;

Duysenbek Sadigulov - amnestied;

Asan Adiev - amnestied;

Beekbergen Zhylykyshiev - amnestied;

Kuanysh Toleuov - amnestied;

Asylbek Toleev - amnestied;

Zhumabek Myrzataev - acquitted.

According to the indictment, the six defendants were amnestied, in accordance with Art. 4 of the Act of the Republic of Kazakhstan "On amnesty on the 20th anniversary of State Independence of the Republic of Kazakhstan" (*clemency may be applied towards defendants who have committed a minor or moderate crime*).

The trial of former Head of the Detention Center, Zhenisbek Temirov

25.04.2012. In the city of Aktau, a court trial began regarding Zhenisbek Temirov, the former Head of the Temporary Detention Facility (TDC) in Zhanaozen. In December 2011, Bazarbai Kenzhebaev, (who came to Zhanaozen to visit his daughter), after being released from the detention facility, returned home where he died from his injuries. Zhenisbek Temirov was charged under Art. 308 of the Criminal Code of Kazakhstan, parts 2 and 4 (abuse of power resulting in serious injury).

03.05.2012. One of the victims, interrogated during the trial, Nikolay Sergeev, said that the police detained him on the evening of December 16th. Riot policemen beat him first, and then drove into the garage of the police station. There he was beaten, stripped, beaten again, and had cold water poured over him. Nikolay Sergeev said that he was kept in the detention center in the same cell as Bazarbai Kenjebayev (who died from injuries received in the detention center), who complained that he was very severely beaten by police officers in masks. On the same day, Adylbek Shamov was interviewed as a victim, (at the same time he is involved in the case regarding riots in Zhanaozen as a defendant). He said that he and other detainees were beaten every half hour, and this way they were forced to sign pre-made reports in which they take the blame for some actions. He also said that he saw Bazarbay Kenjebayev on December 16th – the latter was so badly beaten that he could barely speak.

04.05.2012. There was a confrontation between the former Head of the Temporary Detention Center in Zhanaozen, Zhenisbek Temirov and Mukhtar Kozhaev (the former Head of the Department of Interior in Zhanaozen). According to Zhenisbek Temirov's testimony in the time of investigation, during the December events in Zhanaozen he received commands from M. Kozhaev. During the confrontation Temirov argued that he told Kozhaev about the inadmissibility of keeping people in the detention center without written justification and that it was Kozhaev who gave him the order to keep people in the detention center despite this fact. Kozhaev did not deny this statement and confirmed Temirov's words. Kozhaev said that in emergency situations people can be placed in the detention center without a written order.

17.05.2012. The end of the court trial. The former Head of TDC in Zhanaozen, Zhenisbek Temirov, was sentenced to five years imprisonment with confiscation of property. In addition, Temirov shall pay 1 million tenge (€ 5300) to the mother of Bazarbay Kenjebayev, who was beaten to death in the detention center, as compensation for moral damages.

Findings

Repeated statements about the physical and mental abuse during the investigations, as well as the course and the outcome of the proceedings in cases related to events of the 16th and 17th December, 2011, in Zhanaozen, put a big question mark over the objectivity and fairness of the Kazakh judicial system, as well as over the Kazakh authorities' assurances of compliance with international standards and obligations.

The Republic of Kazakhstan, as a member of many international organizations, has undertaken a number of obligations in the area of protection of human rights and freedoms, to which it currently does not adhere. In particular, on January 24th, 2006, Kazakhstan ratified the International Covenant on Civil and Political Rights (ICCPR) and the First Additional Protocol – on the 30th of June 2009. Given the nature of the breaches identified in the course of court proceedings, one can say that the Republic of Kazakhstan does not adhere to the following articles of the ICCPR:

Art. 6 - right to life;

Art. 7 - freedom from torture and ill-treatment;

Art. 9 - freedom from arbitrary detention and security of person;

Art. 10 - the right to humane treatment of persons in custody or in prison;

Art. 14 - right to a fair trial ;

Also, Kazakhstan acceded to the Convention against Torture on March 26th, 1998 and ratified the First Additional Protocol on October 22nd, 2008, thus recognizing the jurisdiction of the Committee against Torture and Subcommittee for the Prevention of Torture. According to Article 22 of the Convention against Torture, a person under the jurisdiction of the State party that recognizes the competence of the Committee against Torture has the right of individual petition in the case of torture, cruel or inhuman treatment or punishment applied against this person by the authorities of that State. Additionally, the States that have signed and ratified the First Additional Protocol to the Convention against Torture committed themselves to establishing a national mechanism to prevent torture, cruel or inhuman treatment or punishment.

At this point, it can be firmly stated that Kazakhstan has systematically ignored its obligations to protect human rights and freedoms.



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