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KAZAKHSTANI JUDGES SUBJECTED TO PERSECUTION FOLLOWING THE ACQUITTAL OF A VICTIM OF A POLITICALLY MOTIVATED CASE

Chairman of the Aktau City Court, Malik Kenzhaliyev, was removed from office after passing an acquittal in the case of Aigul Akberdiyeva. The authorities of Kazakhstan make it clear that they will immediately punish those judges who dare to issue independent decisions in politically motivated cases.

On 6 February 2019, Aktau City Court Judge Gulnara Baiturova handed down a ruling ruled in the case of Aigul Akberdiyeva. She was accused of 'calling for the seizure of power' for critical comments on social networks. The prosecutor demanded that Akberdiyeva be sentenced to restriction of freedom, but Judge Bayturova acquitted her.

The next day, on 7 February 2019, Chairman of the Aktau City Court, Malik Kenzhaliyev, was removed from his post. His powers as a judge were also terminated.

Formally, Kenzhaliyev was suspended for 'committing an offense contrary to judicial ethics'. The disciplinary commission stated that two years ago, Kenzhaliyev allegedly didn't pay the full remuneration to the workers who were building his house.¹

Malik Kenzhaliyev stated that he was being persecuted precisely in connection with the case of Akberdiyeva.² He reported that ten people came to him and demanded that he leave his office.³ At the same time, the decision to remove the chairman of the court from office has not yet entered into force, as Kenzhaliyev has the right to appeal against it in court.

On 11 February 2019, a press conference was to be held in Aktau with the participation of Malik Kenzhaliyev. Members of the international monitoring mission of the Italian Federation for Human Rights, journalists, and representatives of the civil society gathered for the event. Before it even started, the press conference was disrupted by unidentified persons. They turned off the lights, turned on the fire alarm and forced the audience to leave the room.

Malik Kenzhaliyev was forced to speak straight on the street about the situation that occurred in connection with the acquittal of the case of Aigul Akberdiyeva. He reported that pressure had been exerted by the Kazakhstani security services and appealed to the international community for assistance. Shortly after, the police arrived at the scene and detained all those gathered, including journalists and international observers. They were taken to the police station. The police interrogated all the detainees before releasing them.

¹ <https://tumba.kz/41092.html>

² <https://www.facebook.com/bota.jardemalie.1/videos/389094241876479/>

³ https://www.facebook.com/voloshinaluda/videos/2517564161607047/?eid=ARAMUA5yo3817gnsHzA6uhspVcl390VaDZXzS5EgtBDKsv1B3Z4sxGr7IBCJqI6aximFiXexi6qrkP_d

99.8% of court sentences in Kazakhstan are indictments.⁴ Activists receive prison sentences for criticising the authorities on social networks. In most politically motivated cases, security service officers force the accused to ‘admit guilt’, as the ‘outcome of the case is predetermined’. For example, the victims of torture, Iskander Yerimbetov, Almat Zhumagulov, Kenzhebek Abishev, and Akberdiyeva’s spouse Ablovas Dzhumayev, faced this situation.

In September 2018, the Aktau City Court (Judge Aralbay Nagashibayev) sentenced Ablovas Dzhumayev to three years’ imprisonment on charges of ‘inciting social discord’ and ‘calling for the seizure of power’. The reason for the prosecution was the fact that Dzhumayev criticised the authorities on social networks.⁵ The Appellate Court upheld the sentence against Dzhumayev. Following the acquittal of Akberdiyeva, hopes appeared for justice in her husband’s case.

Lawsuits on politically motivated cases are carried out with an obvious accusatory bias. In almost all cases, the defendants were sentenced to prison terms, requested by the prosecutors. However, in the case of Aigul Akberdiyeva, Judge Gulnara Baiturova rendered an acquittal. There is every reason to believe that this was the true reason behind the prosecution of Chairman of the court, Malik Kenzhaliyev.

In this way, the authorities demonstrate that they are pulling the strings in courts, and that every judge who refuses to obey the instructions ‘from the top’ will face prosecution”.

The Open Dialogue Foundation hereby calls on the international community to defend Kazakhstani judges who dared to go against the system and refused to fulfill a political order. We also urge you to seek the release of Ablovas Dzhumayev, and to speak out in defence of his wife Aigul Akberdiyeva, as the authorities can now cancel her acquittal.

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⁴ https://bureau.kz/novosti/sobstvennaya_informaciya/evropa_kz_na_razvitie/

⁵ <https://en.odfoundation.eu/a/8949,collective-complaint-be-quiet-or-be-charged-with-extremism>