



REPORT:

**KAZAKHSTAN: THE LIFE OF POLITICAL PRISONER
MUKHTAR DZHAKISHEV IS IN DANGER**



Mukhtar Dzhakishev's serious chronic diseases have become more advanced. He is in a need of urgent hospitalisation. Serving time in one of the harshest penal facilities in Kazakhstan, Dzhakishev is not receiving the necessary medical care. The authorities of Kazakhstan do not fulfil the decision of the UN Committee on the release of Dzhakishev

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1. INTRODUCTION

Kazakhstani political prisoner Mukhtar Dzhakishev has suffered from arterial hypertension and left ventricular hypertrophy for many years. Due to excessively high blood pressure, he is at a constant risk of stroke and ischemia. In addition, during his detention, Dzhakishev was beaten, after which he developed kidney disease.

Over eight years of detention, Dzhakishev has been urgently hospitalised twice (in 2015 and 2016) in a public clinic in Almaty. Doctors were only able to stabilise his health condition. In addition, Kazakhstan does not have sufficient conditions for effective treatment of such complex diseases as those with which Dzhakishev has been diagnosed.

Currently, Dzhakishev again needs urgent hospitalisation in a public clinic. Dzhakishev does not receive the necessary medical care in the penal institution. As a consequence, his state of health has been irreversibly affected and the situation may even lead to his death. Such treatment of a prisoner equates to torture.

Dzhakishev is being held in Karaganda Province, in one of the harshest penal institutions in Kazakhstan, in harsh climatic conditions. He has been denied transfer to a facility near his place of residence in Almaty Province with the best conditions of detention.

The UN Human Rights Committee acknowledged¹ that during the criminal prosecution of Dzhakishev, that Kazakhstan violated a number of rights enshrined in the International Covenant on Civil and Political Rights. The UN demanded that the judgement be revoked and Dzhakishev be released from prison. However, the Kazakhstani authorities refused to comply with the decision of the UN Committee. Thus, Kazakhstan once again showed disrespect for its international obligations. The UN noted Kazakhstan's repeated failure to implement the recommendations contained in the Committee's Views on the implementation of the International Covenant on Civil and Political Rights.²

The inhumane and cruel treatment of Dzhakishev is due to another wave of persecutions against the opposition politician Mukhtar Ablyazov and his associates.

2. THE STORY OF CRIMINAL PROSECUTION

Mukhtar Dzhakishev is a former head of the national company Kazatomprom (1998–2001, 2002–2009). In May 2009, Dzhakishev was detained by Kazakhstani special services on suspicion of committing criminal offenses while occupying his post as head of Kazatomprom. In 2010 and 2012, two trials were carried out against Dzhakishev, as a result of which he was sentenced to 14 years' imprisonment in a maximum security penal facility, having been convicted of 'embezzlement of entrusted property' (Article 176 of the Criminal Code of the Republic of Kazakhstan), 'accepting bribes' (Article 311 of the CC of the RK) and 'fraud' (Article 177 of the CC of the RK)³. Dzhakishev pleaded not guilty of the crimes he was charged with.

The foundation of the prosecutor's evidence consisted of testimonies given by Dzhakishev's former colleagues who had agreed to 'cooperate with the investigative bodies' and whose status had been changed from 'the accused' to 'witnesses'. The trials were held behind closed doors, reportedly due to the presence of classified materials in the case. In protest against the confidentiality of the hearing, Dzhakishev refused to participate in the second trial. Due to his health condition, he had not participated in several sessions of the first trial.

¹ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f115%2fd%2f2304%2f2013&Lang=en

² http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/KAZ/CO/2&Lang=en

³ <http://en.odfoundation.eu/a/5469,the-case-of-mukhtar-dzhakishev-the-life-of-the-political-prisoner-is-in-danger>

The criminal prosecution and the lawsuits against Mukhtar Dzhakishev were accompanied by gross violations of Kazakhstani and international legislation.

1. For three days after the detention, Dzhakishev's relatives were not aware of the reasons for his detention, the place of his detention or his physical condition. Citing confidentiality, the National Security Committee (NSC) did not allow independent counsels to work on the case **for more than two months** and prevented Dzhakishev from meeting with his relatives. Dzhakishev refused the services of the public defender. Also, independent counsels weren't allowed to meet with other persons involved in the case who subsequently agreed to cooperate with the investigative bodies and gave evidence against Dzhakishev. Under the pretence of confidentiality, Dzhakishev was not provided with copies of judicial sentences and orders.
2. When the first trial began, the counsel hired by Dzhakishev was unable to perform his duties due to bad state of health. The counsels who were hired as his replacement were not allowed to work on the case for a month.
3. During the consideration of the case, Dzhakishev had several episodes of hypertensive crisis; still, the court refused to allow him to be hospitalised or to postpone the court sessions. For example, on 23 December, 2009, Judge Nurzhan Zholdasbekov continued to carry out the hearing, despite the fact that Dzhakishev was in convulsions.⁴
4. In March 2010, Swiss cardiologists Léo Finci and Francesco Conti arrived in Kazakhstan. They had a mandate from the World Organization Against Torture to monitor the situation with Dzhakishev's health condition. However, they were not allowed to see Dzhakishev and the Foreign Ministry refused to hold a meeting with them.⁵
5. Talgat Kystaubayev, who was accused in the same case with Dzhakishev, stated at the trial that during the investigation he was tortured and persuaded to give false testimony.
6. In Dzhakishev's apartment, a search was carried out without the presence or notification of any of the family members.
7. Mukhtar Dzhakishev's wife was forbidden from travelling outside Kazakhstan for some time under the pretence of her documents being invalid.

On 9 December, 2015, **the UN Human Rights Committee**, having studied Dzhakishev's complaint, recognised the violation by Kazakhstan of a number of articles of the International Covenant on Civil and Political Rights.⁶ The UN Committee concluded that Kazakhstan had violated Dzhakishev's right to humane treatment and respect for dignity; the right to a fair and public trial; the right to a personal presence at the trial, and the right to proper preparation for defence in court and the right to communicate with counsels. Also, according to the Committee, there are grounds to believe that Dzhakishev was subjected to arbitrary arrest and detention. **The UN Committee called on Kazakhstan to revoke the judgement against Dzhakishev, to release him from prison and, if necessary, to carry out a new trial.** Earlier, on 26 March, 2014, the UN Committee urged the Kazakhstani authorities "to take all necessary measures to protect Mr. Dzhakishev's health by providing him with the necessary medical assistance...".⁷

In its response to the UN Committee, the General Prosecutor's Office of Kazakhstan reported that the judgement in the case of Dzhakishev cannot be reconsidered due to the fact that the convict "did not challenge the final judgements in the Supreme Court" and, therefore, did not exhaust all internal protection mechanisms. It is worth noting that the findings of the UN Committee concerned mainly the

⁴ <http://en.odfoundation.eu/a/5469,the-case-of-mukhtar-dzhakishev-the-life-of-the-political-prisoner-is-in-danger>

⁵ <https://tengrinews.kz/news/k-djakishevu-ne-pustili-vrachej-iz-jenevji--44289/>

⁶ Kazakhstan ratified the International Covenant on Civil and Political Rights in 2006, which imposes an obligation on it to adhere to the norms of the Covenant. In 2009, an optional protocol to the Covenant also entered into force for Kazakhstan.

⁷ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f115%2fd%2f2304%2f2013&Lang=en

first trial, which was unsuccessfully challenged by Dzhakishev in all appellate instances, including the Supreme Court.⁸

3. HEALTH PROBLEMS

3.1. Severe detention conditions and battery during his transfer have brought about the deterioration in Dzhakishev's health condition

Mukhtar Dzhakishev has suffered from life-threatening diseases for many years. Back in 2009, when examined in a German clinic, Dzhakishev was diagnosed with arterial hypertension and left ventricular hypertrophy. Due to excessively high blood pressure (rising to 150-260 mm Hg), Dzhakishev is at a constant risk of stroke and ischemia.

In addition, in 2014, during the transfer, Dzhakishev was beaten on the kidneys (his wife was informed about this). However, the authorities “found no evidence” of this incident and refused to initiate a criminal case. Following the transfer, the doctors diagnosed Dzhakishev with nephroptosis (descent) of the right kidney.⁹ **According to the human rights defender Bakhytzhana Toregozhina, the kidney disease began to progress and at the moment Dzhakishev needs urgent hospitalisation and surgery. Otherwise, potentially fatal complications may develop.**

Due to his health problems, Dzhakishev is frequently held in the medical unit of the facility; however, according to the doctors themselves, he cannot be provided with the necessary assistance in full at that place.¹⁰

Conversely, the Ministry of Internal Affairs of Kazakhstan claims that Dzhakishev's general health condition is “relatively satisfactory, necessary medical supervision and treatment is provided”, and also, there is no indication for hospital treatment.^{11,12}

Dzhakishev's state of health has been exacerbated by the conditions of his detention. Following his conviction in 2010, Dzhakishev was transferred to the LA-155/8 facility in the village of Zarechny (Almaty Province). **In 2014, he was transferred to the AK 159/6 facility in the village of Dolinka (Karaganda Province)**, 1,000 km from his family home in Almaty. It was there that Dzhakishev was subjected to battery, after which he began to have problems with the kidneys. This facility has a bad reputation in connection with repeated reports of torture of prisoners. In the years 1930–1959, one of the largest penal facilities of Stalin's GULAG was located in Dolinka.

Karaganda Province is marked by an extremely harsh climate: in winter, the temperature drops to -46°C -48°C, and in summer, it can exceed +40°C. As reported by relatives, in prison, Dzhakishev suffers due to the extremely low and high temperatures, is constantly developing infectious and inflammatory diseases and has the symptoms of vitamin deficiencies.

As a result of numerous appeals by Dzhakishev's counsels and relatives, as well as the reaction of the UN Human Rights Committee, in March 2015, he was transferred back to Zarechny. However, in early March 2017, Dzhakishev was transferred to Astana, allegedly for investigative activities in the case of the former head of the NSC, Nartai Dutbayev. **After that, Dzhakishev was not returned to Zarechny, but sent to the facility in the village of Dolinka.**

⁸ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f115%2fD%2f2304%2f2013&Lang=en

⁹ <http://en.odfoundation.eu/a/5469,the-case-of-mukhtar-dzhakishev-the-life-of-the-political-prisoner-is-in-danger>

¹⁰ <https://www.facebook.com/groups/107768012689182/permalink/1141950165937623/>

¹¹ <https://rus.azattyq.org/a/mukhtar-dzhakishev-sostoyanie-zdorovya-v-tyurme/28586364.html>

¹² <https://www.facebook.com/photo.php?fbid=1634715806540998&set=pcb.1634716646540914&type=3&theater>

Dzhakishev's wife appealed to the Committee of the Criminal Executive System with a request that her husband be transferred to the facility in Zarechny, but the Committee refused to fulfil the request. The department reported that Dzhakishev had to be transferred to the facility in Dolinka, as he is a former law enforcement officer and, according to the law, he should serve punishment in a special facility. The question remains open as to why the Committee applies the provision on detention in a special facility to Dzhakishev only at certain stages of his time served.

3.2. Medical doctors insist on Dzhakishev's urgent hospitalisation

According to the human rights defender Bakhytzhan Toregozhina, medical doctors in the Dolinka facility repeatedly recommended that the facility administration carry out an urgent examination of Dzhakishev in a public clinic and subject him to compulsory treatment in a special clinic; however, the recommendations were ignored.

Dzhakishev has twice previously been hospitalised, in 2015 and 2016, in Almaty City Clinic No.12, which helped to stabilise (but not improve) his health condition. Doctors at the clinic diagnosed Dzhakishev with several diseases, including:

- arterial hypertension, stage III, risk factor - 4, malignant course;
- cardiac ischemia;
- hypertensive encephalopathy (brain disease);
- hypertensive nephropathy. 2nd-degree nephroptosis (kidney disease);
- chronic prostatitis;
- chronic cholecystitis. Chronic pancreatitis

Both in 2015 and in 2016, the doctors of the Almaty City Clinic No. 12 **recommended that Dzhakishev should undergo further hospital treatment and stay under the supervision of doctors. However, at the insistence of the facility administration in Zarechny, he was prematurely discharged from the hospital.**

At the moment, Dzhakishev once again needs to be hospitalised. However, the Kazakhstani authorities denied his hospitalisation, citing the result of Dzhakishev's medical examination in April 2016 in the Kapshagai City Hospital (Almaty Province). Dzhakishev was diagnosed with the same diseases as in the City Clinic No.12. The only difference was that some of the diseases were listed as being in remission. According to the findings of the doctors from the Kapshagai City Hospital, at the time of the examination, Dzhakishev did not need inpatient treatment.

In July 2017, the administration of the facility in Dolinka transferred Dzhakishev from the medical unit to the labour detachment. According to the human rights defender Bakhytzhan Toregozhina, this was done at the insistence of the National Security Committee of the Republic of Kazakhstan.¹³ After that, Dzhakishev's health deteriorated sharply and two days later, he was returned to the medical unit.

At the end of July 2017, Dzhakishev was again sent to the detention facility in Astana, where he was held for several weeks. Dzhakishev's transfer had negative consequences on his health condition. **On 13 August 2017, during his detention in the Astana detention facility, Dzhakishev suffered a hypertensive crisis, as a result of which he lost consciousness for several hours.**¹⁴

Dzhakishev was transferred back to the facility in Dolinka, where he was immediately hospitalised in the medical unit. According to the human rights defender Zhemis Turmagambetova, Dzhakishev is under constant monitoring by the facility's doctors; however, he cannot receive the necessary medical care in

¹³ <https://www.facebook.com/groups/107768012689182/permalink/1118954104903896/>

¹⁴ <https://www.facebook.com/groups/107768012689182/permalink/1137020406430599/>

the conditions of the facility due to the complexity of the diseases. The medical doctor insists on an urgent medical examination of Dzhakishev at the clinic in Karaganda.

Mukhtar Dzhakishev categorically refuses hospitalisation in the prison hospital of the Committee of the Penal Executive System in the city of Pavlodar, as he believes that in the conditions of the penal executive system, he cannot be provided with high-quality medical care. Dzhakishev insists on hospitalisation in Almaty City Clinic No. 12, where he has undergone treatment twice, in 2015 and 2016.¹⁵

4. LINKS TO THE CASE OF MUKHTAR ABLYAZOV

Mukhtar Dzhakishev is a close friend of the opposition politician Mukhtar Ablyazov. According to some reports, it was Dzhakishev who, in 2003, stood surety to President Nursultan Nazarbayev for Mukhtar Ablyazov, who was in prison at that time. Shortly after that, Ablyazov was pardoned by Nazarbayev.¹⁶

However, in 2009, Mukhtar Ablyazov, who was the head of BTA Bank, once again fell into disgrace with Nazarbayev in connection with financing of the opposition. Nazarbayev instructed Dzhakishev to 'convince' Ablyazov to cease opposition activities and return to Kazakhstan (Ablyazov himself reported this fact). Ablyazov refused to accept Nazarbayev's terms, which, according to him, became the reason for Dzhakishev's subsequent persecution.¹⁷ Another reason could be shifts in the spheres of influence in the uranium industry of Kazakhstan. According to Dzhakishev, he opposed the transformation of Kazakhstan's uranium industry into a raw material appendage of the Russian nuclear complex.¹⁸

The criminal prosecution of Dzhakishev, similarly to that of Ablyazov, was initiated in 2009. During the trial, the authorities of Kazakhstan accused Dzhakishev of lobbying for Ablyazov's interests.

It is possible that the current aggravation in the case of Dzhakishev is connected with another round in the Kazakhstani authorities' fight with Mukhtar Ablyazov. In December 2016, the Supreme Council of France recognised the criminal prosecution of Ablyazov as politically motivated¹⁹. INTERPOL removed Ablyazov's name from their wanted list. After that, the authorities of Kazakhstan began to look for new ways to bring about Ablyazov's extradition. They could have demanded that Dzhakishev give testimony against Ablyazov which would be 'convenient' for the investigative bodies.

In 2017, Dzhakishev was transferred to the Astana detention facility for participation in investigative activities in the case of former NSC chairman Nartai Dutbayev. According to Kazakhstani experts, the prosecution of the former NSC chairman may be connected with the failure of the operation aimed at extraditing Mukhtar Ablyazov from France and his subsequent return to active opposition activities. In addition, at the time when Dutbayev was the head of the NSC, two assassinations of renowned politicians, Zamanbek Nurkadilov and Altynbek Sarsenbayev, were committed in Kazakhstan. Therefore, the Kazakhstani authorities may be interested in eliminating Dutbayev as an important witness to those events. Nartai Dutbayev worked as Dzhakishev's deputy for some time when the latter was the head of Kazatomprom.

Within the framework of the case of Detbayev, Nurlan Hasen was detained; according to some reports, he is Dutbayev's son-in-law. Hasen used to be the adviser-envoy of Kazakhstan in Italy and took part in the illegal deportation of Mukhtar Ablyazov's wife and daughter from Italy to Kazakhstan.^{20,21}

¹⁵ <https://www.facebook.com/groups/107768012689182/permalink/1141950165937623/>

¹⁶ <https://rus.azattyq.org/a/kazakhstan-dzhakishev-perevod/28508584.html>

¹⁷ <http://en.odfoundation.eu/a/5469,the-case-of-mukhtar-dzhakishev-the-life-of-the-political-prisoner-is-in-danger> ; <http://www.respublika-kaz.info/news/politics/15290/>

¹⁸ <https://www.youtube.com/watch?v=gluUwmRgwtM&list=PLB4EE56C81AF9E4B4>

¹⁹ <http://www.conseil-etat.fr/Actualites/Communiqués/Decision-d-extradition>

²⁰ <http://www.fergananews.com/news/25801>

5. CONCLUSIONS

The political prisoner Mukhtar Dzhakishev is in a need of urgent hospitalisation and transfer to a facility near his place of residence with less severe conditions of detention. The multiple chronic diseases from which Dzhakishev suffers have become more acute in the conditions of the facility in Karaganda Province. His life is constantly at risk. The authorities subjected Dzhakishev to inhumane treatment and torture, refusing to provide him with the necessary medical assistance.

In July 2009, the head of the Swiss Red Cross association, Guy Mettan, wrote a letter to Nursultan Nazarbayev, in which he expressed his concern about the conditions of Dzhakishev's detention.²² Freedom House²³ and Human Rights Watch²⁴ stated the possible political background of the criminal prosecution of Mukhtar Dzhakishev. In October 2013, a group of Kazakhstani human rights activists included Dzhakishev in the list of contemporary Kazakhstani political prisoners.²⁵ In the Human Rights Watch World Report for 2015, the incident with the beating of Dzhakishev in the facility is mentioned in the section on torture in Kazakhstan.²⁶

As a Member State of the International Covenant on Civil and Political Rights, Kazakhstan must immediately and fully implement the decision of the UN Human Rights Committee regarding the case of Mukhtar Dzhakishev, in particular, it must revoke the judgement and release him from prison.

In December 2018, Mukhtar Dzhakishev will have served 2/3 of the term of his imprisonment, which, according to the Kazakhstani legislation, grants him the right to parole.

The Open Dialog Foundation hereby calls on the international community to exert every possible pressure on the Kazakhstani authorities in order to force them to take urgent measures aimed at improving Mukhtar Dzhakishev's health condition and to transfer him to a facility in Almaty Province. Dzhakishev should be hospitalised in a public clinic and foreign specialists should be allowed to conduct an objective medical examination of Dzhakishev. Dzhakishev's severe health condition, as well as the upcoming date on which he will have served 2/3 of his sentence, create legal preconditions for his early release. The international community should exert pressure on the Kazakhstani authorities, demanding the release of Dzhakishev.

We also call for a close monitoring of developments in the case of Mukhtar Dzhakishev. In 2015, Dzhakishev was transferred to a facility in Almaty Province, also due to the intervention of the UN Human Rights Committee. However, two years later, when the attention of the international community to the Dzhakishev's case weakened, the Kazakhstani authorities again transferred him to a penal facility in Karaganda Province.

In order to prevent future cases of ignoring the decisions of the UN Human Rights Committee, it is necessary to develop a mechanism for sanctions against States that violate their international obligations.

²¹ <https://rus.azattyq.org/a/arest-nartaja-dutbaeva-razglashenie-sekretov/28204080.html>

²² <https://rus.azattyq.org/a/1776483.html>

²³ <https://freedomhouse.org/report/freedom-world/2011/kazakhstan#.VFykVDSsU2h>

²⁴ https://www.hrw.org/sites/default/files/related_material/wr2011_book_complete.pdf

²⁵ <https://rus.azattyq.org/a/dzhakishev-status-politzaklyuchennogo/25130955.html>

²⁶ <https://www.hrw.org/world-report/2015/country-chapters/kazakhstan>

All those willing to support our demands are kindly asked to contact the following persons and institutions:

- UN High Commissioner for Human Rights Zeid Ra'ad al-Hussein – Palais des Nations CH-1211 Geneva 10, Switzerland, phone: +41 22 917 9220;
- The UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Nils Melzer – Palais des Nations, CH-1211 Geneva 10, Switzerland, e-mail: sr-torture@ohchr.org; fax: +41 22 917 9006;
- PACE President Pedro Agramunt – e-mail: pedro.agramunt@senado.es, phone: +33 88 41 23 41;
- OSCE PA President Christine Muttonen – e-mail: christine.muttonen@parlament.gv.at, christine.muttonen@spoe.at, phone: +43 (1) 401 10 3660, +43 (1) 401 10 3444;
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