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THE CASE OF ZHANARA AKHMETOVA: UKRAINE ONCE AGAIN HELPS THE AUTHORITARIAN REGIME TO GET AN OPPOSITION JOURNALIST

Kazakhstan put the journalist Zhanara Akhmetova on the wanted list on the basis of a court judgement which had already become effective; according to her counsels, it is illegal. The Migration Service of Ukraine refused to grant refugee status to Akhmetova. Still, the journalist was not informed about this, and, consequently, she wasn't able to file an appeal. Immediately after that, she was detained with gross violations of Ukrainian legislation, and arrested for 18 days. The facts presented at the trial raise suspicion of cooperation between Ukrainian and Kazakhstani special services for the purpose of extraditing Akhmetova.

Over the past month, this is the third time that a journalist has been detained in Ukraine as a result of misuse of the Interpol system by authoritarian Central Asian states. Ukraine confirms that its reputation of a country, dangerous for refugees and asylum-seekers, is well-grounded.

Zhanara Akhmetova (she uses journalistic aliases 'Zhanara Akhmet' and 'Zhanna Bota') is a Kazakhstani journalist and opposition activist. In March 2017, she arrived in Ukraine and filed an application for refugee status.

THE DETENTION OF AKHMETOVA WAS CARRIED OUT BY UNIDENTIFIED PERSONS WHO USED FORCE AGAINST HER

On 21 October 2017, Saturday, at 6:15 p.m., two unidentified persons in plain clothes deceitfully persuaded Zhanara Akhmetova to leave her apartment, after which they detained her in the corridor. They introduced themselves as officers of the Ukrainian police, but they did not show any documents. They did not allow Akhmetova to return to the apartment.

According to Akhmetova, she intended to make a phone call, but one of the people in plain clothes (later he introduced himself as 'Alexander Ositenko') grabbed her hand and tried to take away her phone.¹ As a result, hematomas appeared on her arm and the sleeve of her blouse was torn. Medical doctors of the district hospital recorded injuries on her body.

Akhmetova described the incident as an attempted kidnapping, orchestrated by the Kazakhstani special services. She phoned the patrol police; after their arrival, according to the counsels, two unidentified persons in civilian clothes disappeared.

From 6:15 p.m. to 9:30 p.m. Akhmetova, along with her 9-year-old son, were kept in the corridor. Akhmetova was informed that she was wanted by INTERPOL at the request of Kazakhstan, but no supporting documents were provided. At 10:00 p.m. she was taken to the police station. It was only at **00:16 a.m. that the confirmation of the arrest warrant for Akhmetova was sent by fax from the Ukrainian bureau of INTERPOL.** Thus, as emphasised by the counsels, from 6:15 p.m. to 00:16 a.m., Akhmetova was being held in detention without any documentary grounds.

¹ Akhmetova demanded that a criminal case be initiated against Alexander Ositenko in connection with this fact.

POSSIBLE ILLEGAL COOPERATION OF LAW ENFORCEMENT BODIES OF KAZAKHSTAN AND UKRAINE IN THE CASE OF AKHMETOVA

On 17 August 2017, the General Prosecutor's Office of Kazakhstan sent a request regarding the extradition of Akhmetova to the General Prosecutor's Office of Ukraine, in which it stated as follows: *"According to the information available, it has been established that Zh. B. Akhmetova is residing in Ukraine at: 11-a Theodore Dreiser Street"*. This may indicate that **the Kazakhstani special services carried out operational activities on the territory of Ukraine**. At the same time, the Ukrainian prosecutor's office did not inquire the Security Service of Ukraine as to how Kazakhstan had gained information which is in the competence of the Ukrainian authorities.

On 24 October 2017, during the consideration of the application for the extradition arrest, the prosecutor presented to the court, the decision of 18 October 2017, issued by the migration service, denying the granting of asylum to Akhmetova. **Neither Akhmetova nor her counsels were aware of the decision**. The court cited the document, despite the fact that the prosecutor had only provided an uncertified copy of poor quality. In addition, the counsels pose a question as to **how the decision of the migration service could fall into the hands of a prosecutor** who is not a party in the case of asylum.

It is noteworthy that on 18 October 2017, a decision was issued to deny the granting of refugee status, and, just three days later, two unidentified persons arrived in order to detain Akhmetova. There are fears that **these people could have already known about the decision of the migration service**. Akhmetova suspects that they were representatives of special services. According to Akhmetova, she repeatedly noticed that she and her son were being shadowed in Ukraine.

THE SEARCH BASED ON THE CHARGES OF 'FRAUD' IS ILLEGAL, AS A COURT JUDGEMENT HAS ALREADY BEEN ISSUED ON THIS CASE

Kazakhstan declared Akhmetova wanted on charges of 'fraud' committed between 2005-2008. She was accused of failing to fulfill her obligations in connection with the purchase of real estate and the return of debt. However, Akhmetova **has already been convicted** in this criminal case. On 24 November 2009, the Kazakhstani court sentenced her to seven years in prison. The execution of the sentence was delayed until her child reaches the age of 14 (i.e. until 5 November 2021).

Counsel Vladislav Grishchenko emphasises that, whenever the authorities pursue a person in order to force him or her to serve the term of imprisonment, imposed by a court sentence, **a new criminal case should be initiated** on charges of a failure to execute the court sentence. This was not done in relation to Akhmetova, and so, she was declared wanted illegally.

Moreover, in December 2016, amnesty² was declared in Kazakhstan. Therefore, Kazakhstani counsel Serik Aitbayev believes that Akhmetova should have been exempted from serving time in prison under the amnesty.

After Akhmetova left Kazakhstan and arrived in Ukraine, on 29 June 2017, the Kazakhstani court canceled the delay in the execution of the court judgement against her. On **3 October 2017**, the 'red notice' of INTERPOL was issued at the request of Kazakhstan.

The court session to appoint the measure of restraint for Akhmetova began on 23 October 2017. Still, it was only in the evening of the next day that the prosecutor submitted a full package of extradition documents with the court. For unknown reasons, special forces officers wearing masks arrived in the court building.³ On 24 October 2017, the judge issued a decision **to arrest Akhmetova for 18 days**. In

² https://online.zakon.kz/Document/?doc_id=31708720

³ <https://www.facebook.com/photo.php?fbid=2263344587025134&set=a.612057168820559.154167.100000488454727&type=3&theater>

protest, Akhmetova went on a hunger strike. Akhmetova's nine-year-old son is still staying with her friends.

THE PERSECUTION OF AKHMETOVA IN KAZAKHSTAN

Judging by the violations, committed during the detention, and possible involvement of the special services in the process, the true reason behind declaring Akhmetova wanted could be retaliation for her journalistic and opposition activities.

Akhmetova wrote articles for the Kazakhstani opposition newspaper '**Tribuna**'. The newspaper ceased its release after, on 7 September 2017, the editor-in-chief of the newspaper, Zhanbolat Mamay, was sentenced by the court to three years of restriction of freedom and three years of a ban on engagement in journalistic activities. The Kazakhstani authorities accused the editor-in-chief of getting sponsorship from the Kazakhstani opposition politician Mukhtar Ablyazov and labelled it 'money laundering'. Human rights organisations have issued statements, pointing to the obvious political nature of the judgement.

In addition, Zhanara Akhmetova is a member of the 'Democratic Choice of Kazakhstan', an opposition movement whose activities were initiated by **opposition politician Mukhtar Ablyazov**. Kazakhstan's pro-government media labelled Akhmetova 'an accomplice' and 'assistant' of Ablyazov, which may indicate the true reasons behind her prosecution.⁴

In January and February of 2017, Akhmetova was twice detained and administrative fines were imposed on her for 'publishing appeals on Facebook to participate in an unsanctioned rally'. At the same time, in February, as Akhmetova claims, the police forces took her phone from her by force and they themselves wrote an appeal, urging people to participate in the rally.

On 9 March 2017, several law enforcement officers arrived at Akhmetova's house and reported that she had been accused of violating traffic regulations when crossing the street. On 13 March 2017, an appropriate administrative case was initiated. The moment of crossing the street at an unauthorised place was allegedly registered on a video-recording device by an unknown person, which may indicate that Akhmetova was subjected to secret surveillance.

On 11 March 2017, Akhmetova was taken to the police station. The investigator informed her that since 2013, she has been involved in a criminal case as a witness and was, allegedly, summoned for questioning. In addition, the extradition documents indicate that, following Akhmetova's entry into Ukraine, the authorities of Kazakhstan brought against her, criminal charges of 'illegal crossing of the border' (Article 392 of the CC of the RK).

UKRAINE HELPS AUTHORITARIAN REGIMES TO PERSECUTE POLITICAL OPPONENTS, REFUGEES AND ASYLUM-SEEKERS

The case of Zhanara Akhmetova has become another alarming example of Ukraine's cooperation with authoritarian states in the implementation of politically motivated criminal prosecution.⁵

The Ukrainian authorities are collaborating with Kazakhstan, seeking the extradition of Kazakhstani opposition politician **Mukhtar Ablyazov and his associates** on charges of 'embezzlement of Kazakhstan's BTA Bank's funds'. On 9 December 2016, **the French Council of State** refused to extradite Ablyazov, recognised his case as politically motivated, and stressed that Kazakhstan had exerted pressure on the Ukrainian and Russian authorities, demanding that they send requests for his extradition.⁶ INTERPOL has

⁴ <https://www.zakon.kz/4884887-v-mvd-rk-prokomentirovali-zaderzhanie.html> ; <https://www.nur.kz/1654926-podruchnyu-ablyazova-arestovala-nacio.html>

⁵ http://ru.odfoundation.eu/a/7977_otchet-ukraina-pomogaet-postsovetskim-gosudarstvam-presledovat-politicheskikh-opponentov-i-bezhencev

⁶ <http://www.conseil-etat.fr/Actualites/Communiqués/Decision-d-extradition>

removed the name of Ablyazov and several of his associates from the wanted list.⁷ The EU member states **refused to extradite to Ukraine**, several individuals⁸ accused in the criminal case of Ablyazov.⁹

On 20 September 2017, at the 'Kiev' airport, Ukrainian border guards detained Uzbek journalist **Narzullo Okhunzhonov**, who was placed on the wanted list by INTERPOL at the request of Uzbekistan. Along with his family, he arrived in Ukraine from Turkey and filed an application for the granting of political asylum. On 25 September 2017, the Ukrainian court arrested him for 40 days. Human rights organisations publicised the case widely, after which on 18 October 2017, Okhunzhonov was released from custody.

On 14 October 2017, Azerbaijani opposition journalist **Fikret Guseynov** was detained at the 'Boryspil' airport, as he was wanted by INTERPOL at the request of Azerbaijan.¹⁰ He has been granted political asylum and citizenship in the Netherlands. On 17 October 2017, the Ukrainian court arrested him for 18 days.

The detention of Azerbaijani human rights defender **Alovsat Aliyev** in Ukraine in mid-2016 also caused wide reverberation as he had been granted asylum in Germany. He was forced to spend approx. 20 days in a detention facility, and it was only due to the intervention of German diplomats that his extradition to Azerbaijan was prevented. In addition, in September 2016, the SBU (Security Service of Ukraine) officers kidnapped from the migration service office and forcibly transferred to Russia, **Aminat Babayeva**, who had applied for asylum in Ukraine.

Residence in Ukraine is especially unsafe for refugees (including journalists and human rights activists) from post-Soviet states, with which Ukrainian law enforcement agencies collaborate closely. Rendering assistance to the authoritarian regime of Kazakhstan, Russia's closest ally, discredits Ukrainian law enforcement agencies. In modern Kazakhstan, activists and journalists are sentenced to prison terms for civic and trade union activities, participation in peaceful rallies, as well as for publications and 'sharing posts' on social networks.¹¹

The Migration Service of Ukraine systematically and unjustifiably refuses to grant asylum or subsidiary protection to refugees from authoritarian states. At the same time, in most cases, the politically motivated criminal or administrative cases against asylum seekers, their opposition activities, and systemic violations of human rights in their country of origin, are not taken into account.

For example, following the beginning of the Russian-Ukrainian armed conflict, dozens of Russian citizens opposing Putin's regime's policy, moved to Ukraine and filed applications for asylum; however, they have been repeatedly denied it.¹² At the same time, in December 2016, the migration service, without any delay, granted the citizenship of Ukraine to the Russian MP Denis Voronenkov, who had supported the annexation of the Crimean peninsula.¹³ **This proves that Ukraine has an opaque and selective approach to providing protection to foreign citizens.**

The Open Dialog Foundation hereby calls on the Ukrainian authorities to release Zhanar Akhmetova from custody and deny her extradition to Kazakhstan. In addition, Akhmetova intends to appeal the refusal of asylum. Extradition is not possible while the appeal procedure is underway. The case of Akhmetova bears signs of political motivation. The Convention on the Status of Refugees and the European Convention on Extradition prohibit the extradition of persons in the case when criminal charges have political overtones.

⁷ Muratbek Ketebayev, Alexander Pavlov, Tatiana Paraskevich.

⁸ Igor Kononko, Roman Solodchenko, Tatiana Paraskevich, Syrym Shalabayev

⁹ http://ru.odfoundation.eu/a/8094_otchet-kazahstan-presleduet-byvshih-top-menedzherov-bta-banka-chtoby-poluchit-pokazaniya-protiv-muhtara-ablyazova
<http://khpg.org/en/index.php?id=1508061724>

¹⁰ http://en.odfoundation.eu/a/8423_the-list-of-kazakhstani-political-prisoners-and-persons-subjected-to-politically-motivated-prosecution-by-kazakhstan

¹² http://ru.odfoundation.eu/a/7977_otchet-ukraina-pomogaet-postsovetskim-gosudarstvam-presledovat-politicheskikh-opponentov-i-bezhencev

¹³ <http://nv.ua/ukr/ukraine/events/stalo-vidomo-jak-eks-deputat-derzhdumi-voronenkov-otrimav-ukrajinske-gromadjanstvo-652678.html>

We also address the European Parliament, the Parliamentary Assembly of the Council of Europe, the OSCE PA, the UN and the governments of democratic States with a request that they exert pressure on the Ukrainian authorities in order to bring to an end, their collaboration with authoritarian regimes in prosecuting political opponents.

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