

URGENT ACTION

ACTIVIST CONDITIONALLY FREED, TWO STILL DETAINED

On 29 July, the Atyrau City Court in Kazakhstan ruled to keep prisoners of conscience Maks Bokaev and Talgat Ayan in pre-trial detention until 31 August. On 15 July, prisoner of conscience Zhanat Esentaev was convicted of “incitement of discord” and sentenced to two-and-a-half years’ probation.

On 29 July, Court number 2 of Atyrau City in Atyrau Region, western Kazakhstan, ruled that prisoners of conscience **Maks Bokaev** and **Talgat Ayan** should remain in pre-trial detention until 31 August. The criminal charges against them of “propaganda and public calls to seize or retain state power, as well as seizure or retention of state power or violent change of the constitutional order of the Republic of Kazakhstan” (Article 179 of the Criminal Code) were dropped. Maks Bokaev and Talgat Ayan are now being charged with committing the criminal offences of “inciting social, national, clan, racial, class, or religious discord” (Article 174), “spreading of false information” (Article 274) and organizing unsanctioned meetings and demonstrations (Article 400).

On July 15, the Uralsk City Court in north-western Kazakhstan found singer and activist **Zhanat Esentaev** guilty of “inciting social, national, clan, racial, class, or religious discord” for his posts on Facebook. The court sentenced him to two-and-a-half years’ probation under Article 44 of the Criminal Code and imposed the following additional specific conditions: Zhanat Esentaev is barred from participating in public events, holding concerts, attending seminars and workshops with the participation of international organizations and publishing information on socio-political issues. He was released in the court room.

Maks Bokaev, Talgat Ayan and Zhanat Esentaev, were among dozens of activists arrested in the days leading up to 21 May, when demonstrations against changes to the Land Code had been planned across Kazakhstan.

Relatives have expressed concerns about the conditions of the detention and the health of Maks Bokaev and Talgat Ayan.

Please write immediately in Kazakh, Russian, English or your own language:

- Urging the Kazakhstani authorities to drop all charges against Maks Bokaev and Talgat Ayan and release them immediately and unconditionally as they are prisoners of conscience, detained solely for exercising their right to freedom of expression and intending to exercise their right to peaceful assembly;
- Urging the Kazakhstani authorities to take steps to have all charges against Zhanat Esentaev overturned and to lift the restrictions imposed on him as part of his sentence;
- Calling on them to respect the rights to freedom of peaceful assembly and freedom of expression for all in Kazakhstan.

PLEASE SEND APPEALS BEFORE 13 SEPTEMBER 2016 TO:

Prosecutor General
Zhakip Assanov
14 Orynbor Street
Astana, 010000
Republic of Kazakhstan
Fax: +7 7172 506 402
Salutation: Dear Prosecutor General

Minister of Internal Affairs
Kalmukhanbet Kassymov
Tauelsizdik avenue, 1
Astana, 010000
Republic of Kazakhstan
Email: Kense@mvd.kz
Salutation: Dear Minister

And copies to:
Human Rights Commissioner
Askar Shakirov
8 Orynbor Street
Astana, 010000
Republic of Kazakhstan
Fax: +7 7172 740 548

Also send copies to diplomatic representatives accredited to your country.

HIS EXCELLENCY MR ERZHAN KAZYKHANOV, Embassy of the Republic of Kazakhstan, 125 Pall Mall SW1Y 5EA

Tel: 020 792 51757, london@kazembassy.org.uk

Please check with your section office if sending appeals after the above date. This is the second update of UA 115/16. Further information: <https://www.amnesty.org/en/documents/EUR57/4220/2016/en/>

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ADDITIONAL INFORMATION

Maks Bokaev and Talgat Ayan were detained on 17 May in Atyrau, western Kazakhstan, after publicly stating that they intended to participate in demonstrations planned for 21 May. In these statements, they also encouraged others to take part in the demonstrations. Both Maks Bokaev and Talgat Ayan were sentenced to 15 days' administrative detention under Article 488 of the Administrative Offences Code for "violation of the legislation of the Republic of Kazakhstan on organizing and holding peaceful assemblies". Zhanat Esentaev was arrested on the same day in Uralsk. All three had put in requests with the local authorities in their respective towns to hold demonstrations on 21 May, as national law requires.

On 31 May, a day before their administrative detention was due to expire, Maks Bokaev and Talgat Ayan were charged with "propaganda and public calls to seize or retain power, as well as seizure or retention of power or violent change of the constitutional order of the Republic of Kazakhstan" under Article 179 of the Criminal Code, and remanded for three months in pre-trial detention in Atyrau.

Demonstrations took place across Kazakhstan throughout late April and into May, against proposed changes to the Land Code that would have allowed unused, state-owned agricultural land to be privatized and sold off to Kazakhstani citizens, or leased for up to 25 years to foreign citizens. A presidential moratorium was placed on the changes in May, meaning that they have been dropped for the time being; however, protests continued.

Further protests were planned for 21 May. Where organizers sought advance permission for the rallies from local authorities, as required under national law, permission was arbitrarily refused in all cases. Nonetheless, in towns and cities across Kazakhstan, people attempted to come to town centres on the day in peaceful protest. These were all relatively small gatherings, of between several dozen (in most places) to several hundred people. In most places the gatherings were dispersed by police. No violence was reported.

In the days leading up to 21 May, at least 34 activists were arrested and sentenced to administrative detention (for up to 15 days), as the authorities attempted to suppress information about the planned protests and place behind bars those identified as "organizers". Most of those arrested between 17 and 20 May had done nothing more than use posts on social media to state their intention to participate in the planned protests, or to provide information about the demonstrations. The majority of those detained were released, but some were fined or sentenced to administrative detention of between 10 and 15 days.

Freedom of peaceful assembly is heavily restricted in Kazakhstan. Permission from local authorities is needed to hold any kind of street protest and this is often refused, or permission is given to hold the event in a non-central location. Penalties of up to 75 days' administrative detention are in place for violations of the rules on holding assemblies, including for organizing or participating in an unauthorised demonstration (Articles 155 and 400 of the Criminal Code and Article 488 of the Administrative Offences Code).

The right to freedom of peaceful assembly is provided in legally binding international human rights treaties that Kazakhstan has ratified, including Article 21 of the International Covenant on Civil and Political Rights. This right, as detailed by international law and standards, should not be subjected to the permission of government authorities. The authorities may require prior notification of assemblies in order to facilitate the right of peaceful assembly and to take measures to protect public safety or the rights of others, but this should never translate into advanced authorization of such demonstrations.

Further information on UA: 115/16 Index: EUR 57/4595/2016 Issue Date: 2 August 2016