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Kazakhstan: Psychiatric detention of lawyer must be ended

The International Commission of Jurists (ICJ) today expressed its serious concern at the continued detention of lawyer Zinaida Mukhtorova in a psychiatric facility. This is the second time the lawyer has been detained on mental health grounds. The ICJ is concerned that this detention may amount to an act of harassment or reprisal for Zinaida Mukhtorova's legitimate exercise of her professional functions. Furthermore, the ICJ is concerned at reports that her detention may have been extended today as a reprisal for her challenging the detention through the courts.

At about 10.30 am on 9 August, Zinaida Mukhtorova, a practicing lawyer from Balkhash, Kazakhstan, was taken from her house by four police officers, two male hospital attendants, two nurses and a doctor. On 20 August, a decision of Balkhash City Court upheld the motion of the Prosecutor's Office to detain the lawyer. It is particularly worrying that the Court decision authorizing Zinaida Mukhtorova's detention gives as one reason for detention her "possibly querulant" and "litigious" activity. This language raises serious concerns that Zinaida Mukhtorova's psychiatric detention is being justified on grounds of her legitimate professional activities, which are interpreted as a "danger to the people around her" with no explanation of the precise risks she allegedly posed to the public.

According to Zinaida Mukhtorova, on 2 September, a Commission of the Pharmaceutical and Medical Control Committee of the Karaganda Regional Health Department visited the facility where she is currently held. Following an interview, the Commission decided to transfer her from mandatory to voluntary treatment. She then informed the staff that she wanted to leave the hospital and was told she could do that on 3 September. She was allowed to inform her relatives of her departure. However, it is reported that after the Deputy Head of the Medical Facility, Doctor R.R. Iskakov, received documents concerning her appeal to a court challenging the decision to detain her, he cancelled her release and said she would not be let out until all the court proceedings have been completed. If this is the case, then it appears that Zinaida Mukhtorova's continued detention is inconsistent with Article 128(2) the Code on Public Health and Health System of the Republic of Kazakhstan which states that a person who is voluntarily treated at a mental hospital may leave the hospital following his or her request for release.

"Psychiatric detention of a lawyer on grounds of her professional activities would amount to arbitrary detention in violation of Article 9 ICCPR. Refusal to release a detainee contrary to the requirements of national law would also render the detention arbitrary." Róisín Pillay, Director of the Europe Programme, said today. "This disturbing case raises concerns regarding the freedom of lawyers to pursue their profession without intimidation, harassment or reprisal", she said.

Detention or forced medical or psychological treatment of lawyers on grounds of their professional activities are contrary to the UN Basic Principles on the Role of Lawyers as they constitute harassment, intimidation or reprisal for carrying out professional activities. Under the UN Basic Principles on the Role of Lawyers, governments must guarantee that lawyers do not suffer prosecution or administrative, economic or other sanctions, or threats of such sanctions, for any action taken in accordance with recognized professional duties, standards and ethics.

The ICJ calls on the authorities of Kazakhstan to end the arbitrary detention of Zinaida Mukhtorova, and ensure her release in accordance with national law. The government must guarantee that neither criminal nor any other punitive measures are taken against lawyers for discharging their duties in accordance with accepted principles of professional conduct.

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