

**31 July 2018**

**Kazakhstan: the ICJ calls to immediately drop prosecution of lawyer Bauyrzhan Azanov**

Today, the International Commission of Jurists (ICJ) called on the government of Kazakhstan to drop all charges of “knowingly disseminating false information” against lawyer Bauyrzhan Azanov related to his representation of a child who is the alleged victim of sexual abuse by older children.

“The prosecution of Bauyrzhan Azanov in relation to statements he made as part of his representation of a child violate the lawyer’s freedom of expression, and prevent him from effectively representing his client”, said Temur Shakirov, ICJ Senior Legal Advisor. “Instead of targeting a lawyer, the investigative authorities should use their resources to investigate the allegations of human rights violations in this case and ensure the protection of the rights of this child in accordance with Kazakhstan’s international obligations.”

Bauyrzhan Azanov, a prominent lawyer in Kazakhstan, took up a high-profile case in which he represented a minor, an alleged victim of sexual and physical abuse over a prolonged period. The case became public in March 2018 through media reports. Once the case became public several district police officers were fired, and two heads of schools and some other state agents were suspended from office, reportedly in relation to their failure to report and investigate the case.

In his statements in the social media, Azanov alleged the investigation had been obstructed due to corrupt reasons. In reaction to this, on 21 May 2018, the mother of the minor submitted a complaint against Azanov where she expressed concerns about “social tension”, “forming a negative image of the investigative body” and herself “as a mother”.

Following the mother’s complaint, on 24 July, the General Prosecutor's Office initiated a criminal investigation against the lawyer for knowing dissemination of false information, which alleged that:

*“The information disseminated by lawyer B. Azanov was deliberately distorted and untrue, which created a false idea among the public about the alleged corruption of justice system, investigative bodies, the mother of the child and other persons. This caused psycho-emotional and social tension among the public and created a threat of destabilization of internal political situation, thereby creating a threat of violation of public order.”*

Through the media, Azanov has denied the allegations against him and has stated that he acted in the best interests of his client and sought to ensure accountability for criminal acts.

On 1 June 2018, Nursultan Nazarbayev, President of the Republic of Kazakhstan commented on the case stating that unreasonable prolongation of the investigation is connected with the nepotism in the police and higher investigative authorities.

The Ombudsperson, members of the Kazakhstan Bar Association and human rights activists have made public statements in support of Bauyrzhan Azanov.

In these circumstances, the ICJ is concerned that criminal charges against lawyer Bauyrzhan Azanov for public comments in which he raised concerns about possible violations of human rights of his minor client, may violate the lawyer’s right to freedom of expression. The right to freedom of expression is protected under international treaties to which Kazakhstan is a party, including by Article 19 of the International Covenant on Civil and Political Rights (ICCPR). As the UN Human Rights Committee stated in its General Comment 34 on the freedom of expression:

*“When a State party invokes a legitimate ground for restriction of freedom of expression, it must demonstrate in specific and individualized fashion the precise nature of the threat, and the necessity and proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat.”*

According to the UN Basic Principles on the role of lawyers, lawyers have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion

and protection of human rights without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization (Principle 23).

It is of particular concern that the Prosecutor's Office document uses vague concepts that may amount to arbitrary use of grounds for restriction of freedom of expression of the lawyer. In particular it is unclear how prosecutorial authorities measured "psycho-emotional and social tension of the public" or that on what basis the lawyer's comments may have "created a threat of destabilization of internal political situation" creating a threat to the public order.

These broadly and atypically worded justifications for prosecution are likely to lead to arbitrary interference with freedom of expression.

Prosecution of the lawyer for his attempts to raise human rights related issues of his minor client, unsupported by any evidence or explanation what they may refer to, is also likely to have a chilling effect on those who defend human rights of victims of abuse.

The ICJ recalls that according to the UN Basic Principles on the Role of Lawyers, Governments must ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference (Principle 16).

### **Background information**

Bauyrzhan Azanov is a well-known lawyer in Kazakhstan practicing in Astana.

On 13 March 2018, the media reported a case in which a seven-year-old child from South Kazakhstan whose name is not disclosed, had allegedly been subjected to sexual and physical abuse for several months by his older schoolmates. The boy had complained about the incidents several times.

On 14 March, 2018, a criminal investigation was initiated by the Prosecutor's Office. However, according to Bibigul Asylova, Vice Minister of Education and Science of the Republic of Kazakhstan, the facts of rape "were not confirmed". It was also revealed that the grandmother of the abused child applied to the police earlier in 2017 but no investigation was carried out.

On 14 March, 2018 Azanov agreed to take up the case. Azanov provided representation pro bono. He regularly published information about progress in the case and alleged procedural violations in the case. Throughout the investigation of the case, on many occasions Azanov alleged that the State authorities did not investigate the case in good faith.

On 18 April 2018, the minor's mother filed a request to the Prosecutor's Office to remove the lawyer from the process. It remains unclear why the contract between her and Azanov was not simply terminated directly by the mother.