



The Law Society of Upper Canada | Barreau  
du Haut-Canada

May 10, 2017

H.E. Nursultan Nazarbayev  
President of the Republic of Kazakhstan  
Office of the President of the Republic of Kazakhstan  
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Your Excellency:

**Re: Arrest, conviction and detention of lawyer Talgat Ayanov**

I write on behalf of the Law Society of Upper Canada\* to voice our grave concern over the arrest, conviction and detention of lawyer Talgat Ayanov. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Talgat Ayanov is a lawyer and activist from Atyrau, Western Kazakhstan. He played a crucial role in organizing peaceful protests that took place last April and May in response to the November 2015 amendments to the Land Code of the Republic of Kazakhstan (the “Land Code”).

In April and May 2016, hundreds of citizens gathered to call for the abolition of the above-noted Land Code amendments. In early May 2016, Talgat Ayanov promoted and encouraged participation in a rally that was to occur on the 21st of that month. Consequently, on May 17, 2016, he was arrested and sentenced to 15 days of administrative detention for “organizing an unsanctioned assembly”.

The Law Society’s information states that on May 31, 2016, one day before the end date of his administrative detention, Talgat Ayanov was charged with the offence of “propaganda or public calls for seizure of power or retention of power or violent change of the constitutional order”. Later, on July 21, 2016, this charge was replaced with “institution of social discord”, “dissemination of knowingly false information” and “violation of the procedure of organization and holding of meetings, rallies, pickets, street processions and demonstrations”. Additionally, on June 3, 2016, he was remanded for two months to pre-trial detention; the pre-trial detention was subsequently extended on August 27, 2016.

Talgat Ayanov's trial commenced on October 12, 2016. On November 28, 2016, he was convicted and sentenced to five years in a penal colony and prohibited from engaging in social activities for three years upon his release. The sentence was appealed on December 9, 2016, but upheld on January 20, 2017. It appears that Talgat Ayanov intends to further appeal to the Supreme Court.

On January 30, 2017, Talgat Ayanov's family received notice that he would be transferred to the Penal Colony of Petropavlovsk in Northern Kazakhstan to serve his sentence. Initially, he was to serve his sentence in the penal colony located in Atyrau, his place of residence. Kazakhstani law mandates that convicts be incarcerated near their place of residence. The Penal Colony of Petropavlovsk is located 1,500 km from Atyrau. Thus, it would appear that Talgat Ayanov's transfer is illegal and indefensible.

Moreover, human rights organizations are concerned that imprisonment in the Penal Colony of Petropavlovsk, where conditions of detention are known to be particularly harsh and where (due to the distance) regular visits from family and lawyers will not be possible, would place Talgat Ayanov at greater risk of torture and ill-treatment.

The Law Society is deeply concerned about Talgat Ayanov's situation and urges Your Excellency to comply with Kazakhstan's obligations under international human rights laws, including the United Nations' *Basic Principles on the Role of Lawyers*.

Article 16 of the *Basic Principles on the Role of Lawyers* states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economics or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Article 17 states:

Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

Article 18 states:

Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions.

Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall 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 and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the Government of Kazakhstan to:

- a. immediately and unconditionally release Talgat Ayanov;
- b. immediately and unconditionally vacate the convictions rendered against Talgat Ayanov;
- c. guarantee all of the procedural rights that should be accorded to Talgat Ayanov in accordance with his right to a fair trial;
- d. guarantee in all circumstances the physical and psychological integrity of Talgat Ayanov;
- e. put an end to all acts of harassment against Talgat Ayanov and all other human rights lawyers and defenders in Kazakhstan;

- f. ensure that all lawyers in Kazakhstan can carry out their professional duties and activities without fear of reprisals, physical violence or other human rights violations; and
- g. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours truly,

Paul B. Schabas  
Treasurer

*\*The Law Society of Upper Canada is the governing body for more than 50,000 lawyers and 8,000 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

*The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.*

cc:

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