

Le Bâtonnier

H.E. Alibek BAKAYEV
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Geneva, 7 April 2020

**Grave concerns about the situation of Mr Amanzhol MUKHAMEDYAROV and
Mr Erlan GAZUMZHANOV**

Your Excellency,

I am writing to you on behalf of the *Ordre des avocats de Genève* (ODAGE), which represents more than 1,500 lawyers in Geneva. The ODAGE is member of the Swiss Federation of Lawyers, the *Union Internationale des Avocats* and the International Bar Association.

The ODAGE places great emphasis on the respect for human rights, the rule of law and the protection of lawyers in the exercise of their activity.

We are writing to you to express our concern about the situation of lawyer's freedom of expression and the independence of the legal profession in Kazakhstan. We have been informed that Mr Amanzhol MUKHAMEDYAROV and Mr Erlan GAZUMZHANOV, which are prominent Kazakh attorneys, are facing disbarment following a lawsuit brought by the Ministry of Justice of the Republic of Kazakhstan.

These two lawyers are accused of violating court rules by publishing on a social network an archive video from a court hearing session from 29 April 2019 in a case in which they alleged inappropriate behaviour by the judge, who made improper comments about the two lawyers specifically, and the legal profession in general.

Still, on 26 February 2020, the Supreme Court of the Republic of Kazakhstan took the decision to disbar Mr Amanzhol MUKHAMEDYAROV and Mr Erlan GAZUMZHANOV from practising law.

This sanction violates the Basic Principles on the Role of Lawyers, as it prevents lawyers to practice independently and in freedom, even when it means criticizing the authorities when necessary.

The ODAGE is deeply concerned about Mr Amanzhol MUKHAMEDYAROV and Mr Erlan GAZUMZHANOV who face an inadmissible restriction on their freedom of expression in the exercise of their activity.

I respectfully draw your attention to the **1990 UN Basic Principles on the Role of Lawyers** which provide that the authorities guarantee that lawyers can perform all of their professional functions without intimidation, hindrance, harassment or improper interference and that they do not suffer, or be threatened with, prosecution for any action taken while carrying out their duties (**Principle 16**).

Furthermore, according to **Principle 23**, "*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 UN Basic Principles were adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990, have a normative value under customary international law, and should be respected by the Republic of Kazakhstan.

Kazakhstan is also a party to the **International Covenant on Civil and Political Rights (ICCPR)** which states in **Article 14(1)** that "everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law".

Therefore, and in light of the above, I respectfully urge the Kazakhstan authorities to:

- **comply with the standards set forth by the Basic Principles on the Role of Lawyers as well as their obligations under International Human Rights Law;**
- **immediately and unconditionally end proceedings initiated against Mr Amanzhol MUKHAMEDYAROV and Mr Erlan GAZUMZHANOV;**
- **protect Mr Amanzhol MUKHAMEDYAROV and Mr Erlan GAZUMZHANOV and all lawyers and human rights defenders in Kazakhstan against any present or future harassment, intimidation and/or reprisal in the exercise of their profession and of legitimate human rights activities.**

I thank you for your attention to this very serious and urgent matter. ODAGE and I will continue to closely monitor this situation.

Respectfully yours,

Lionel HALPÉRIN



Copy to:

- **H.E. Zhanar Aitzhanova**, Ambassador, Permanent Representative of the Republic of Kazakhstan to the United Nations, 16, chemin du Prunier, 1218 Grand-Saconnex, Switzerland (Email: mission@kazakhstan-geneva.ch)
- **H.E. Urs Schmid**, Ambassador, Embassy of Switzerland in Kazakhstan, 8F, 62 Kosmonavtov Street, Microdistrict Chubary, 010000 Nur-Sultan, Kazakhstan (Email: tehran@eda.admin.ch)
- **Mr Diego Garcia-Sayan**, Special Rapporteur on the Independence of Judges and Lawyers, Office of the United Nations High Commissioner for Human Rights, United Nations Office at Geneva, 8-14, Avenue de la Paix, 1211 Geneva 10, Switzerland (Email nur-sultan@eda.admin.ch)