



## **Facing the facts or avoiding the truth?**

### **Taldykorgan trial of police accused of torture will test Kazakhstan's commitment to its international human rights obligations**

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In August 2022, the first case involving law enforcement officers charged with using torture against individuals detained during and after the January 2022 events began in the city of Taldykorgan in Kazakhstan. International Partnership for Human Rights (IPHR), Kazakhstan International Bureau for Human Rights and the Rule of Law (KIBHR), Kazakhstan's Coalition against Torture and the World Organisation against Torture (OMCT) are seriously concerned about procedural violations observed during the court hearings in this case and call on the authorities of Kazakhstan to uphold international human rights standards and deliver on their pledge to ensure accountability for abuse of individuals detained in connection with the January 2022 unrest.

The January 2022 unrest in Kazakhstan occurred after a peaceful demonstration, which began on 2 January 2022 in the western region of Mangistau over an increase in fuel-prices, led to widespread anti-government protests across the country. Thousands of people were detained by law enforcement officials during and after the protests, which were framed by the authorities as being initiated by 'terrorists' from abroad. Although no evidence of this was provided, troops from the Collective Security Treaty Organisation (CSTO) were invited to Kazakhstan to help restore order. According to official sources, at least 238 people died during these events. Human rights groups, however, estimate that this number might be higher. The government of Kazakhstan has so far rejected calls to opening an international investigation into these deaths.

There are also numerous reports of torture and ill-treatment of detainees at the hands of law enforcement officials during and after the turmoil. The Kazakhstani authorities have officially recognised that 15 officers are suspected of using torture and other illegal means of interrogations. However, monitoring and documentation by human rights groups in the country indicates that many more officials committed torture and continue to enjoy impunity for their crimes.

Since 9 September 2022, Kazakhstan's Coalition against Torture and the KIBHR have been monitoring the hearings at Taldykorgan City Court, in the case of torture of participants of the January events by state officials. So far four hearings have taken place with the next hearing set for 30 September.

Five state officials, three police investigators, one local police officer and one cadet,<sup>1</sup> have been charged with torture (Article 146 of the Criminal Code) of protest participants. **Twenty-four individuals, including three minors**, have been recognized as victims of torture haven taken place in the Almaty Regional Police Department in Taldykorgan following the January events.

However, the organisations issuing this document share the concerns of the victims and their relatives, about procedural violations during the court hearing. Firstly, not all of the victims were properly notified of the first hearing and a majority did not receive a notification of the time the trial was due to take place. However, it is possible that the victims were not notified because some of them were defendants in criminal cases related to their alleged involvement in the January events. As part of this process, law enforcement officials have confiscated their phones and they have been using other numbers. Thus the court could have been using phone numbers taken from the database without verifying them. During the hearings, around 10 victims were present in court.

Secondly, during the trial the victims and the suspects were seated side by side, which is detrimental for the emotional and mental health of those tortured. Some victims experienced post-traumatic stress as a result of their treatment by Taldykorgan officers. One victim in particular suffered sudden high blood pressure during the second hearing on 15 September 2022 and fainted in court. Moreover, parents have been accompanying their children to court as they fear for their safety during this process. Conflicts have also arisen in court between the defendants and the victims, and their relatives. One police officer behaved aggressively toward a relative of one of the victims who took a picture of him. The police officer threatened the relative with reprisals if he did not delete the picture. The lawyers of the defendants have also supported a ban on pictures of their clients.

Moreover, **the victims' lawyers request to change the measures of restraint of the suspects from home arrest to detention was dismissed by the judge on the grounds that the lawyer's justification was "incomplete"**. The lawyer argued that the defendants had not violated any laws during the investigation and trial process and that, therefore, it was not necessary for them to be detained. **He further argued that the defendants do not represent a threat to the victims**. The victims and their families now fear that the former police officers staying at large will be able to influence the course of the trial themselves or with the help of their yesterday's colleagues. The victims are expected to make their own request to the judge on this matter shortly.

Throughout the trial so far the victims of torture have been made to bear the burden of proof despite the existing material evidence that they were tortured. The victims feel insecure and are afraid that should they fail to prove that they were tortured they themselves could be taken to court for defamation or falsely reporting a crime - both offences which are punishable by prison terms in Kazakhstan.

**Finally, journalists and media representatives were not able to cover the court hearing properly**, as the small courtroom could hold only 15 people and journalists were the last to be admitted. Only a few journalists were thus able to attend the first hearing. At the second hearing, a room was available for journalists who could not access the courtroom in order for them to follow the proceedings on a screen. However, the quality of the sound and images was very poor, and journalists reported that they could

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<sup>1</sup> Kenzhebaev A., Nurtaza Zh., ToktashS., Bokanov A., Zhumashov E.

understand very little of what was being said. During the court sessions over 50 people were in the courtroom, despite its small capacity.

On 9 September 2022, Arman Tenizbaev, who was detained on 8 January 2022, testified that law enforcement officials had burnt him with an iron in the days that followed his detention. He stated that only one of the three police officers responsible for his torture was present in court.

On 15 September 2022, Dauren Aitov, who was detained on 10 January 2022, testified in detail about being tortured by law enforcement officials in the days that followed his detention – including being burnt by an iron by one police officer while five other law enforcement officers held him down. Only one of Dauren Aitov's abusers was present in court.

After hearing these testimonies, the judge suggested that the case be sent for additional investigation. The hearing was held in Kazakh language, however two lawyers from Kazakhstan's Coalition against Torture do not speak Kazakh. As required by law, an interpreter was present in the court but she failed to interpret much of what was being said during the hearing. As a result, the victims' lawyers disagreed with the judge's decision to send the case for further investigation although their clients agreed with it. As such, the judge adjourned the hearing to 30 September 2022 for the victims and their lawyers to discuss and agree on a common position.

The organisations issuing this document call on the Kazakhstani authorities to stand true to their widely declared policy of zero tolerance of torture and their proclaimed commitment to ensuring accountability for abusive treatment of people detained in connection with the January protests. These commitments mean that in practice:

- Victims of torture should at all times be provided with adequate and appropriate safety and security measures during trial hearings. The trials should be held in a manner that is sensitive to the victims' situations and avoid re-traumatisation, according to paragraph 34 of the Committee against Torture's General Comment n°3 (2012) on the implementation of Article 14 by State Parties, and provide them with adequate and appropriate protection.
- In cases of torture it is the state's obligation and not the victims to bear the burden of proof.
- People reporting torture, be it confirmed or not, should not be subjected to retaliation, including criminal prosecution.
- All trials in cases of alleged torture should be accessible to the public and journalists.

The trials over the January 2022 torture allegations that have begun in Kazakhstan are a test case for the government with respect to their international and domestic commitments on human rights in general and anti-torture ones in particular.