

APPROVED

Chair of the Coordination Council on Human Rights under the Cabinet of Ministers
of Kyrgyzstan, Deputy Chair of the Cabinet of Ministers of Kyrgyzstan

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Summarized information in response to letter No. AL KGZ 2/2024 from the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Working Group on Arbitrary Detention; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the independence of judges and lawyers, regarding the detention and prosecution of Olzhobai Shakir, Zarina Torokulova and Zhoomart Karabaev

Regarding the detention and criminal prosecution of Olzhobai Shakir

The user of the Facebook account under the name Olzhobai Shakir, of the TikTok account under the name Olzhobai and of the YouTube account under the name Ruhesh TV was identified by investigation units of the State Committee on National Security of Kyrgyzstan. The owner of these accounts is Olzhobai Shakirovich Egemberdiev, born on 11 March 1970, a native of At-Bashy village in At-Bashy district, Naryn Province. He has systematically published materials calling for active disobedience of the lawful demands of the authorities and for mass disorder and calls for violence against citizens and for the violent seizure or retention of power, as well as for the violent change of the constitutional order, using the mass media or Internet information and communication networks.

Political and religious expert examinations of the statements and publications in question have concluded that they contained views, ideas or calls for active disobedience of the authorities' lawful demands and calls for mass disorder, for violence against citizens and for the violent seizure or retention of power, as well as for the violent change of the constitutional order.

Thus, on 23 August 2023, the Main Investigation Department of the State Committee on National Security initiated criminal case No. 03–820-2023–000195 on the grounds of a crime under article 278 (3) of the Criminal Code.

The investigation of the criminal case established that Mr. Egemberdiev, as a citizen of Kyrgyzstan who had the opportunity to lead a normal life at his place of residence, intended to have a negative impact on the social and political situation in Kyrgyzstan by discrediting and denigrating the current Government. He also maliciously and unjustifiably engaged in the situation, calling for mass disorder.

Mr. Egemberdiev made use of Internet information and communication networks, and specifically of Facebook, under the account name Olzhobai Shakir, of TikTok under the account name Olzhobai and of a YouTube account under the name Rukhash TV. He is the owner of these accounts and he systematically published materials calling for active disobedience of the authorities' lawful demands and for mass disorder, for violence against citizens and for the violent seizure or retention of power, as well as for the violent change of the constitutional order.

It has been established that on 21 August 2023 at 12:00, Mr. Egemberdiev was at home at the following address: Bishkek, Achakey Street No. 10, and he used the Olzhobai Shakir Facebook account to publish "*Биротоло бузукулук керсетейун элге. 31 августа элди митинге ундойм. Ысык-Колдегу талаштуу 4 пансионаттын тагдырына кайдыгер болбой, өлкө тагдырын опурталдуу чечимдери менен коркунучка кетпеген Садыр аванардын тизгинин какпасак, бул дөлдүр мекинибизди деле белеке кармата берчү түрү бар*" (note: citations communicated in Kyrgyz).

According to the conclusion of political expertise No. 01–03/150 of the Institute of State and Law of the National Academy of Sciences of Kyrgyzstan, dated 23 August 2023, Mr. Egemberdiev's statements cited above contain views, ideas or calls for active disobedience of the authorities' lawful demands and for mass disorder, calls for violence against citizens and calls for violent seizure or retention of power, as well as calls for a violent change of the constitutional order.

On 23 August 2023, Mr. Egemberdiev was detained under article 96 of the Code of Criminal Procedure on suspicion of committing a crime under article 278 (3) of the Criminal Code, and he was taken to the temporary holding facility of the remand centre of the State Committee on National Security. On the same day he was charged with committing a crime under article 278 (3) of the Criminal Code.

On 17 October 2023, the investigation was completed and the criminal case was sent to the Alamudun district court of Chui Province for consideration on the merits.

On 14 May 2024 the Alamudun district court found Mr. Egemberdiev guilty of committing a crime under article 278 (3) of the Criminal Code and sentenced him to 5 years of deprivation of liberty at an ordinary regime correctional colony.

Mr. Egemberdiev did not accept the court's decision and filed an appeal to change the sentence.

The judicial board of the Chui provincial court on 15 July 2024 upheld the sentence of the Alamudun district court of 14 May 2024 and dismissed the appeal.

On 12 August 2024, a cassation appeal was filed against the court decision. The criminal case is currently under consideration by the Supreme Court.

Regarding the detention and criminal prosecution of Zarina Torokulova

The user of the Facebook and TikTok accounts under the name Umai Aruu has systematically published posts of a provocative nature, including photos and videos, containing calls for the organization of mass disorder and the violent seizure of power, as well as incitement to ethnic, regional and religious hatred, with the aim of social and political destabilization.

According to preliminary information, the account user is ██████████ ██████████, a citizen of Kyrgyzstan born on ██████████ in the village of ██████████, in Zhumgal district, Naryn Province.

On 30 August 2023, an investigator of the Main Investigation Department of the State Committee on National Security initiated criminal case No. 03–820-2023–000202 on the grounds of a crime under article 278 (3) of the Criminal Code.

During the investigation, it was established that the owner of the Umai Aruu account on Facebook Messenger and TikTok is ██████████, who has been sentenced to life imprisonment. He regularly published provocative and destructive video materials on his pages.

According to certificate 5 of the Main Department of the State Committee on National Security, no connection was found between ██████████ and ██████████. In this regard, on 8 September 2023, the criminal prosecution against ██████████ was terminated for lack of corpus delicti under article 278 (3) of the Criminal Code.

The investigation into the Umai Aruu Facebook account established a connection with a user under the account of Zarina Torokulova, whose owner is Zarina Anarkulovna Torokulova, a native of the city of ██████████ born on ██████████. Specifically, monitoring of the Internet revealed that the user of the Umai Aruu account in Facebook Messenger and TikTok systematically published posts calling for mass disorder and active disobedience of the authorities, as well as other video files and publications that could be harmful to the legally protected national interests of public security and public order.

It was established that the owner of the Umai Aruu account is the convict ██████████ ██████████, who regularly published provocative and destructive video materials on his

By a decision of 24 October 2024, the criminal prosecution against Ms. Torokulova was terminated owing to a lack of corpus delicti in her actions, in respect of the previously brought charges relating to [REDACTED]

[REDACTED] According to the results of the expert study, such discourse was sent by the other, unidentified persons, in respect of which the materials were separated into separate proceedings.

On 24 October 2023 Ms. Torokulova was definitively charged with committing crimes under article 41 (3) and article 278 (3) of the Criminal Code, the indicia of which are incitement of calls for active disobedience of the lawful demands of the authorities and for mass disorder, as well as calls for violence against citizens.

Thus, on 13 August 2023, Ms. Torokulova established contact on Facebook with the user of the Umai Aruu account, wrote him a text aimed at becoming acquaintances and ensuring continuous correspondence to establish a trusting relationship and asked him to publish on the Internet his videos entitled “Japarov-Mafia” and “Olzhobai Shakira”, with calls for mass disorder.

On 22 and 23 August 2023, [REDACTED] published provocative videos containing inaccurate, destructive information aimed at social and political destabilization and calling for mass disorder.

An expert study, having examined the Umai Aruu account user's publications on Facebook Messenger and TikTok, concluded that there were signs of calls for disobedience of the lawful demands of the authorities and for mass disorder.

On 25 October 2023, the investigation was completed and the criminal case was sent to the Pervomaisky district court of Bishkek for consideration on the merits.

The Pervomaisky district court on 16 January 2024 found Zarina Anarkulovna Torokulova guilty of committing crimes under article 41 (3) and article 278 (3) of the Criminal Code and sentenced her to 5 years of deprivation of liberty, with the sentence to be served at an ordinary regime correctional colony; on the basis of article 82 of the Criminal Code, a probation period of 3 years was applied, and the preventive measure was changed to a written undertaking to refrain from leaving the country until the sentence enters into force.

On 19 February 2024, the Office of the Procurator filed an appeal to change the sentence, considering it too lenient.

The judicial board of the Bishkek city court on 5 April 2024 changed the sentence handed down by the Pervomaisky district court on 16 January 2024 and excluded the application of article 82 of the Criminal Code. The pretrial detention of the accused from 8 September 2023 to 16 January 2024 was counted as part of the sentence, and she was taken from the courtroom into custody; the unexecuted part of the sentence was reduced by one third, in accordance article 3 (1) (2) of the Amnesty Act.

On 22 April 2024 a cassation appeal was filed by A. Alagushev, the defence counsel, calling for the verdicts of the district and Bishkek city courts to be overturned and for Ms. Torokulova to be acquitted.

The Supreme Court on 3 July 2024 upheld the verdict of 5 April 2024 of the judicial board for cases of crimes and offences of the Bishkek city court regarding Ms. Torokulova and dismissed the cassation appeal brought by the defence counsel.

Regarding the detention and criminal prosecution of Zhoomart Karabaev

On 22 May 2024, the Main Investigation Department of the State Committee on National Security received a report from the State Committee's Fifth Department on calls for active disobedience of the lawful demands of the authorities and calls for mass disorder in Kyrgyzstan.

The user of Facebook and TikTok accounts under the names of Zhoomart Karabaev and Zhoomart_Kyrgyz, who regularly publishes negative posts and comments aimed at social and political destabilization in the country, was identified.

Comprehensive philological, linguistic and political expertise No. 002715, dated 6 June 2024, and expertise No. 01-03/105, dated 31 May 2024, established that the statements on Facebook and TikTok made under the accounts for Zhoomart Karabaev and Zhoomart_Kyrgyz included calls for mass disorder.

On 19 June 2024, an investigator of the Main Investigation Department of the State Committee on National Security initiated criminal case No. 03–820-2024–000209 on the grounds of a crime under article 278 (3) of the Criminal Code.

During the investigation it was established that Z. Karabaev, during his stay in Kyrgyzstan, using his Zhoomart Karabaev and Zhoomart_Kyrgyz accounts, periodically published posts calling on the active part of the country's society to disobey the lawful demands of the authorities and calling for mass disorder, thus destabilizing the social and political situation in the country.

Specifically, the verbatim content of the published posts and comments reads as follows: *"Бийликти эл алып кайра бийликтен да эл алып туцөрүн унутпаш керек», «Эл - сел менен эсептецкенди билиш керек», «Эл ойгоно баитаттыр», «Сакеңер Конституцияга К-Түн арчып, Мамлекетти кигизчү жерин киргизип салдыго".*

Report No. 002715 of 6 June 2024, of the forensic expert service of the Ministry of Justice, and report No. 0103/105 of 31 May 2024 by the experts of the National Academy of Sciences, concluded that the materials provided for the study, posted by the user of the Facebook and TikTok accounts under the names Zhoomart Karabaev and Zhoomart_Kyrgyz, called for active disobedience of the lawful demands of the authorities and called for mass disorder, against the background of the current social and political situation, related to the presence of various kinds of public protests and other apolitical-radical elements. Such statements carry calls for social and political destabilization and direct citizens to wilfully engage in active anti-constitutional actions contrary to the country's policy and against its current supreme legitimate authorities.

By his actions, Zhoomart Eltuibasovich Karabaev thus committed a crime under article 278 (3) of the Criminal Code, the indicia of which are actions calling for active disobedience of the lawful demands of the authorities and calling for mass disorder, as well as calling for violence against citizens.

On 2 July 2024, Mr. Karabaev was detained under article 96 of the Code of Criminal Procedure on suspicion of committing a crime under article 278 (3) of the Criminal Code and taken to the temporary holding facility of the remand centre of the State Committee on National Security.

On 3 July 2024, Mr. Karabaev was charged with committing a crime under article 278 (3) of the Criminal Code, and on the same day the Pervomaisky district court of Bishkek remanded him in custody as a preventive measure for the duration of the investigation, until 19 August 2024.

On 19 August 2024, the investigating judge of the Pervomaisky district court of Bishkek extended the detention of Mr. Karabaev until 19 September 2024.

At present, the necessary investigation is being carried out by the Main Investigation Department of the State Committee on National Security.

In view of the above, the detention and investigations of these persons were carried out within the framework of the law of Kyrgyzstan and on the basis of confirmed facts.

Regarding the legality and validity of the initiation of the criminal cases, we inform you that when the criminal cases were initiated, all reasons and grounds provided for by the Code of Criminal Procedure were considered, and all decisions on directing pre-investigation checks, investigations and the conduct of investigative actions are made by the investigator independently, except in cases where the law requires obtaining the consent of the procurator or a decision of the investigating judge, as established by this Code. The investigator bears responsibility for their lawful and timely execution.

According to the Constitution, justice is administered solely by the courts, which are independent and subject only to the Constitution and the law. No one has the right to call a judge to account on a specific court case, and all interference in the administration of justice is prohibited. Court proceedings are conducted on the basis of equality of rights and adversarial proceedings, and the court may not apply a legal act that contradicts the Constitution.
