

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association  
and the Special Rapporteur on the situation of human rights defenders**

REFERENCE:  
AL KAZ 1/2017

23 January 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 32/32 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **permanent closure of the Confederation of Independent Trade Unions of Kazakhstan**.

According to the information received:

On 5 December 2016, the Justice Ministry reportedly filed a case before an economic court in Shymkent, in southern Kazakhstan, against the Confederation of Independent Trade Unions of Kazakhstan, seeking its closure. It accused the independent trade union of failing to confirm its status as a national union within six months of its registration by proving its membership base and affiliation to a higher-tier union, as required by article 10(2) of the Law on Professional Unions of the Republic of Kazakhstan.

On 4 January 2017, the aforementioned economic court ordered the permanent closure of the Confederation of Independent Trade Unions of Kazakhstan, after having reportedly rejected a request from the union to postpone the hearing to allow sufficient time to prepare.

It is reported that three other industrial unions, affiliated to the Confederation of Independent Trade Unions of Kazakhstan, and representing medical workers, domestic workers and mine workers, face a similar risk of permanent closure in a related legal action by the Justice Ministry.

Serious concern is expressed about the reported permanent closure of the Confederation of Independent Trade Unions of Kazakhstan, in contravention of international human and labour rights standards governing freedom of association. More generally, serious concern is expressed about the Law on Professional Unions of the Republic of Kazakhstan which threatens the very existence of independent trade unions in the country.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites

international human and labour rights instruments and standards relevant to these allegations.

As it is our responsibility under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please confirm the legal basis for the permanent closure of the Confederation of Independent Trade Unions of Kazakhstan. Please indicate how this measure is compatible with international human and labour rights norms and standards governing freedom of association.
3. Please provide information on the legal action brought by the Justice Ministry against the three other industrial unions affiliated to the Confederation of Independent Trade Unions of Kazakhstan and representing medical workers, domestic workers and mine workers.
4. More generally, please indicate how the Law on Professional Unions of the Republic of Kazakhstan complies with the aforementioned norms and standards.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to ensure that decisions on closure of organizations including trade unions can be challenged and re-considered, that existing legal actions against trade unions do not result in closures, that a process of revision of the Law on Professional Unions is initiated and more generally that independent trade unions in Kazakhstan can operate freely.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst  
Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In relation to the allegations indicated in this letter, we would like to refer your Excellency's Government to the right to freedom of association as set forth in article 21 of the International Covenant on Civil and Political Rights, ratified by Kazakhstan on 24 January 2006.

Furthermore, resolution 24/5 of the Human Rights Council is relevant in this case. In this resolution, the Council "[r]emind[ed] States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including... trade unionists and others... and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law" (OP2).

We would also like to remind your Excellency's Government of Conventions 87 and 98 of the International Labour Organization (ILO), ratified by Kazakhstan on 13 December 200 and 18 May 2001 respectively. The ILO has on several occasions raised concern about the registration and mandatory affiliation requirements contained in the Law on Professional Unions of the Republic of Kazakhstan.

We would like further to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms. Articles 5(a) provides for the rights to meet or assemble peacefully and to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms.

Finally we would like to refer to the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on his visit to Kazakhstan in January 2015 in which he analysed the aforementioned trade union law as follows: "[b]roadly speaking, the new law imposes mandatory affiliation of trade unions to regional or sectorial federations. It denies trade unions the right to freely form and join labour organizations of their choice. These new requirements fall short of international law, which stipulates that the right not to belong to an association is a core component of freedom of association. The Special Rapporteur recommends that the authorities revise the new law on trade unions to bring it in line with international standards as highlighted by the International Labour Office in its memorandum of technical comments on the draft law on trade unions of Kazakhstan" (para. 34, A/HRC/29/25/Add.2).