



# INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

*" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "*

## COMMUNIQUE DE PRESSE – COMUNICADO DE PRENSA

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### **Kazakhstan: ICJ calls for withdrawal of disbarment proceedings against defence lawyer**

The Kazakhstan authorities should withdraw the unfounded and abusive disbarment proceedings begun this week against prominent Kazakh defence lawyer, Daniyar Kanafin, the International Commission of Jurists (ICJ) said today. The attempt to annul Mr Kanafin's licence to practice follows public comments in which he criticised the Kazakh law on state secrets as contrary to international law. The National Security Committee has sought his disbarment on the grounds that these comments create a negative image of the Government and of Kazakh legislation in the eyes of the international community.

"This attempt to disbar a lawyer for his criticism of the law is contrary to fundamental principles of the independence of lawyers, and of their right to freedom of expression," said Róisín Pillay, Senior Legal Advisor for Europe at the ICJ. "The International Covenant on Civil and Political Rights (ICCPR), to which Kazakhstan is a party, requires that lawyers, like other citizens, should not be penalised simply for expressing their views on issues of law and policy; healthy debate on the law and its application is necessary to an effective legal system that upholds human rights."

The ICJ recalled that the UN Basic Principles on the Role of Lawyers (Principle 23) affirm lawyers' right to freedom of expression and state that, in particular, lawyers 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 without suffering professional restrictions as a result.

These disbarment proceedings come as the state secrecy law is being used to prevent independent lawyers, including Mr Kanafin, from representing a client in a high profile criminal case. In the prosecution for misappropriation of the head of the National Atomic Company, Mukhtar Djakishev, which is classified as secret, Mr Kanafin and another lawyer, Nurlan Beysekeev, been refused permission to represent the defendant, on the grounds that they do not have the security clearance required for access to state secrets. The defendant is currently not legally represented, since he has refused the services of a government-appointed lawyer.

Emphasising the importance in international human rights law of access to legal representation for persons in detention or facing trial, the ICJ noted that defendants in criminal cases have a right to be represented by a lawyer of their choice (Article 14.3.d ICCPR) and this obligation cannot be fulfilled by imposition of a state-appointed lawyer. The UN Basic Principles on the Role of Lawyers also affirm the right of lawyers to appear before a court on behalf of their clients, unless the lawyer has been disqualified in accordance with law (principle 19).

The ICJ is an international non-governmental organisation comprising sixty of the world's most eminent jurists and has a worldwide network of national sections and affiliated organisations

“Fair trial rights, and the independence of the legal profession, are threatened where state secrecy is used as a means to exclude independent legal representation. That a lawyer who challenges this threat to fair trial faces disbarment as a result raises serious concerns for defence rights in the Kazakh criminal justice system.” Róisín Pillay concluded.

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