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Kazakhstan: Release Asya Tulesova from pre-trial detention

Asya Tulesova was taken into custody on 8 June and has been charged under two articles of the Criminal Code for using force against a police officer and insulting a police officer. She could face a maximum sentence of three years. A court remanded her in custody on 10 June for 10 days. She should be immediately released from pre-trial detention.

Asya Tulesova, a social and environmental activist, was monitoring a peaceful demonstration on 6 June that was arbitrarily dispersed by police. Along with others, she attempted to stop the police from carrying peaceful protestors into police vans by standing in front of one of the vans. Police officers took her by the hands then forced her to the ground where they restrained her briefly before letting her go. Following this incident, she shouted at one of the police officers: “You have no shame!” Video footage from the events show her acting in an emotional state and rebuking police officers. She can be seen striking out at an officer with her right, then her left hand, which lands clearly above his head on his hat knocking it off. She returned home, but later received a summons to appear at a local police station. She is charged under Article 380 part 1 of the criminal code for using force against a police officer, and Article 378 part 1 for insulting a police officer.

In a Facebook post after the event Asya said: “Instead of being a punishing and repressive machine, I want our police to be a law enforcement system defending the rights, freedoms, health and life of the citizens. I refuse to be a victim. I believe in humanity.”

Under international human rights law, pre-trial detention must be an exceptional measure used only as a last resort when there is substantial risk of flight, harm to others or interference with the evidence or investigation that cannot be allayed by other means. On this basis, Asya Tulesova’s pre-trial detention is disproportionate and appears to be a form of reprisal for her political activism. It not only goes against Kazakhstan’s obligations under international human rights law but also expressly contravenes its national law. Under Kazakhstani law, pre-trial detention should be used only in cases where the maximum sentence is 5 years or more. The authorities should take into account the risks posed by the COVID-19 pandemic to people in pre-trial detention, and this should be a strong factor weighing towards release.

The court hearing on 10 June was conducted on-line allowing only Asya and her lawyer to be present along with the judge and the prosecutor. As such it cannot be considered a public hearing. While governments have had to introduce changes to court procedures to limit the spread of Covid-19, these changes cannot be allowed to impinge on the basic right of a fair and public hearing in line with Article 14 of the ICCPR.

Amnesty International calls on the Kazakhstani authorities to honour their international human rights obligations and to abide by Kazakhstani legislation and release Asya Tulesova from pre-trial detention.

Background

Hundreds of people were arrested across Kazakhstan on 6 June for taking part in a peaceful protest demanding better government financial assistance and the freeing of political prisoners. Police officers

blocked access to Ghandi Park in Almaty, where peaceful protesters were trying to assemble, claiming that the area was being disinfected. Police officers apprehended and carried peaceful demonstrators into police vans. Most of the demonstrators were released after a few hours in custody.

The demonstrations took place on the day that an unduly restrictive new law on Public Assemblies came into force. The new Law falls short of international human rights standards in several important respects and Amnesty International and other organizations called on the president not to sign it and to reopen public consultation on the draft bill. The new Law is premised on the view that freedom of peaceful assembly is a privilege granted or refused by the authorities rather than a right. It imposes an onerous and bureaucratic “notification” process on demonstration organizers that clearly goes beyond the requirement to notify the authorities and effectively amounts to a requirement to seek permission in all but name. Furthermore, demonstration can only be held in specially designated areas. On 6 June, the local authorities in Almaty had not yet set up special areas for demonstrations.

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