

# URGENT ACTION

## FIVE YEARS IN PRISON FOR PLANNING A RALLY

**Prisoners of conscience Maks Bokaev and Talgat Ayan have been convicted on 28 November of “incitement of discord”, “spreading of false information” and organizing unsanctioned demonstrations. They have both been sentenced to five years’ imprisonment. Maks Bokaev urgently requires access to adequate medical care.**

On 28 November, the City Court No.2 in Atyrau City, western Kazakhstan, sentenced prisoners of conscience **Maks Bokaev** and **Talgat Ayan** to five years’ imprisonment. They were convicted of “inciting social, national, clan, racial, class, or religious discord” (Article 174 of the Criminal Code), “spreading of false information” (Article 274) and organizing unsanctioned demonstrations and meetings (Article 400) for their involvement in demonstrations against planned changes to the Land Code that took place across Kazakhstan in April and May.

Maks Bokaev and Talgat Ayan were detained initially on 17 May in Atyrau City, after publicly stating in posts on social media that they intended to participate in demonstrations planned for 21 May, and encouraging others to do so as well. Since then they have been held in detention. Their trial, which began on 12 October, did not meet the requirements of a fair trial contained in international human rights treaties that Kazakhstan has ratified. Maks Bokaev and Talgat Ayan are expected to appeal against their conviction and sentencing.

Maks Bokaev is living with chronic hepatitis C. Since being taken into detention in May, his health has deteriorated and his family have stated that he has not been receiving adequate treatment for the condition or for related health problems.

### **Please write immediately in Kazakh, Russian, English or your own language:**

- Urging the Kazakhstani authorities to release Maks Bokaev and Talgat Ayan immediately and overturn the convictions against them;
- Urging them to ensure that Maks Bokaev has immediate access to adequate medical care, in line with the UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules);
- Calling on them to respect the rights to freedom of expression and peaceful assembly for all in Kazakhstan.

### **PLEASE SEND APPEALS BEFORE 10 JANUARY 2017 TO:**

Prosecutor General

Zhakup Assanov

Office of the Prosecutor General

14 Orynbor Street

Astana, 010000

Republic of Kazakhstan

Fax: +7 7172 506 402

**Salutation: Dear Prosecutor General**

Minister of Internal Affairs

Kalmukhanbet Kassymov

Ministry of Internal Affairs

1 Taulsizdik Avenue

Astana, 010000

Republic of Kazakhstan

Email: kense@mvd.kz

**Salutation: Dear Minister**

**And copies to:**

Human Rights Commissioner

Askar Shakirov

8 Orynbor Street

Astana, 010000

Republic of Kazakhstan

Fax: +7 7172 740 548

### **Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:**

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the third update of UA115/16. Further information:

<https://www.amnesty.org/en/documents/EUR57/4595/2016/en/>

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INTERNATIONAL**



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### ADDITIONAL INFORMATION

Maks Bokaev and Talgat Ayan were detained on 17 May in Atyrau City, Atyrau Region, western Kazakhstan, after publicly stating in posts on social media that they intended to participate in demonstrations planned for 21 May, and encouraging others to do so as well. In these posts, they also stated that they had put in requests with the local authorities in Atyrau City to hold a demonstration on 21 May (as required under national law), but that these requests had been refused. On 17 May, both Maks Bokaev and Talgat Ayan were sentenced to 15 days' administrative detention under Article 488 of the Administrative Offences Code for "violation of the legislation of the Republic of Kazakhstan on organizing and holding peaceful assemblies". At least 32 other people were also detained in the days leading up to 21 May, across Kazakhstan, and placed in administrative detention for 10-15 days; most were detained for stating in posts on social media that they intended to demonstrate on 21 May.

On 24 May, a week before their administrative detention was due to expire, Maks Bokaev and Talgat Ayan were charged under the Criminal Code and placed in pre-trial detention, where they remained until they were convicted and sentenced on 28 November. Their convictions relate to the posts on social media that they made in the days leading up to 17 May, and their involvement in an earlier "unsanctioned" demonstration on 24 April.

The trial began on 12 October and was not conducted in line with fair trial guarantees, including those provided for in Article 14 of the International Covenant on Civil and Political Rights (ICCPR), which Kazakhstan has ratified. For instance, access to trial monitors was restricted, and Maks Bokaev's and Talgat Ayan's lawyers were not given access to some of the information contained in the prosecutor's case against them or did not have enough time to analyse case materials.

Maks Bokaev has been living with chronic hepatitis C for five years. Following successful treatment two years ago, the disease had gone into remission, but since his detention, Maks Bokaev's health has deteriorated considerably. According to his family, he has been denied adequate medical care, including access to antiviral therapy, and has developed further health complications. On 18 October, an ambulance was called to attend to him in the court room, and he was taken to hospital, where he was diagnosed with cholecystitis and pancreatitis. The UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules) clarify that the provision of health care for prisoners is a State responsibility and that prisoners should enjoy the same standards of health care that are available in the community and without discrimination. Furthermore, the Mandela Rules also provide that prisoners who require specialist treatment must be transferred to specialized institutions or outside hospitals when such treatment is not available in prison. Failure to provide adequate healthcare to prisoners may violate the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, including under Article 7 of the ICCPR and the Convention Against Torture, both of which have been ratified by Kazakhstan.

Demonstrations took place across Kazakhstan throughout late April and into May, against proposed changes to the Land Code that would have allowed unused, state-owned agricultural land to be privatized and sold off to Kazakhstani citizens, or leased for up to 25 years to foreign citizens. A presidential moratorium was placed on the changes in May, meaning that they have been dropped for the time being.

The right to freedom of peaceful assembly is provided in legally binding international human rights treaties that Kazakhstan has ratified, including Article 21 of the International Covenant on Civil and Political Rights. This right, as detailed by international law and standards, should not be subjected to the permission of government authorities. The authorities may require prior notification of assemblies in order to facilitate the right of peaceful assembly and to take measures to protect public safety or the rights of others, but this should never translate into advanced authorization of such demonstrations.

Name: Maks Bokaev and Talgat Ayan

Gender m/f: both male.

Further information on UA: 115/16 Index: EUR 57/5235/2016 Issue Date: 29 November 2016