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## Kazakhstan: Justice must prevail for torture victim Rasim Bayramov<sup>1</sup>

**(28 January 2015)** In December 2014, Kostanay City Court ordered the Department of Internal Affairs of Kostanay region to pay compensation to Rasim Bayramov for torturing him in 2008. Police and procuracy did not accept the ruling and Kostanay Regional Court will consider the police appeal on 5 February 2015.

Rasim Bayramov has struggled for justice for years. When domestic complaint mechanisms proved ineffective, he turned to the United Nations Committee against Torture, with the support of the Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR) and the Open Society Justice Initiative. On 14 May 2014, the UN Committee ruled under its Individual complaints procedure that Rasim Bayramov's treatment at the hands of police amounted to torture and that Kazakhstan should "conduct a proper, impartial and independent investigation in order to bring to justice those responsible for the complainant's treatment (and) provide (Rasim Bayramov) with full and adequate reparation, including compensation and rehabilitation, and to prevent similar violations in the future."

In July 2014, the Special Prosecutors Directorate of Kostanay Regional Prosecutor's Office instigated a criminal case under Article 347-1 of the Criminal Code of Kazakhstan<sup>2</sup> in relation to police abuse Rasim Bayramov was subjected to. However, on 10 December the Regional Prosecutor's Office decided to close the criminal case and Rasim Bayramov's lawyer is currently preparing a complaint against the decision.

In September 2014, KIBHR filed a civil compensation claim on Rasim Bayramov's behalf relating to the torture he was subjected to and on 12 December Kostanay City Court ordered the Department of Internal Affairs of Kostanay region to pay him damages amounting to 100,000 Tenge (approx. 470 EUR).

The organizations mentioned below believe that the December 2014 Kostanay City Court ruling on awarding Rasim Bayramov financial compensation – although the court granted a comparatively low amount -- is an important milestone toward providing remedies to torture victims in Kazakhstan and should be implemented. In its ruling the Court rightly stressed that Kazakhstan is obliged to implement

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<sup>1</sup> The description of Rasim Bayramov's case is based on information submitted by the Kostanay branch of the Kazakhstan International Bureau for Human Rights and Rule of Law. The document was produced as part of the project "Action for Freedom from Torture in Kazakhstan and Tajikistan" that is jointly carried out by the NGO coalitions against torture in Kazakhstan and Tajikistan, the Helsinki Foundation for Human Rights (Poland) and International Partnership for Human Rights (Belgium). The contents of this document are the sole responsibility of the organizations issuing it and can under no circumstances be regarded as reflecting the positions of the European Union, Open Society Foundations and National Endowment for Democracy.

<sup>2</sup> This was the Article on "torture" in the 2008 version of the Criminal Code of Kazakhstan.



principles contained in international human rights treaties it has ratified as well as rulings on individual cases issued by international human rights bodies.

Back in 2008, police officers of the city of Rudny in Kostanay region detained Rasim Bayramov following witness statements accusing him of having stolen some money and three bottles of beer from a local store. Police held him at the local police station without access to a lawyer and tortured and ill-treated him to extract a confession for two and a half days. Rasim Bayramov later recounted that police officers kicked and beat him all over his body, pushed him off a chair, dragged him along the corridor by his hair, and threatened him with sexual violence if he did not confess; they deprived him of sleep at night and gave him nothing to eat or drink for over two days. When he lost consciousness, police poured water on him and continued torturing him. Eventually, they forced him into signing a confession. Although Rasim Bayramov and his mother repeatedly complained about the torture and procedural violations to the Department of Internal Affairs and the Prosecutor's Office, no effective investigation was opened into the allegations. During the trial Rasim Bayramov told the judge about police torture and retracted his confession, but Rudny City Court ignored the allegations and sentenced Rasim to five years' imprisonment based on evidence including the forced confession. Rasim Bayramov served his sentence until May 2011, when he was released early for health reasons.

### **Background information:**

Kazakhstan is a party to the UN International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), thus committing itself to prevent acts of torture and other forms of ill-treatment. In 2008, Kazakhstan authorized the Committee against Torture to consider complaints under its Individual complaints procedure and, by doing so, provided people in Kazakhstan with the opportunity to submit complaints to the Committee when their rights under the Convention against Torture have been violated by Kazakhstan and when all domestic remedies have been exhausted. The same year Kazakhstan ratified the Optional Protocol to the Convention against Torture, which obliges states to set up a National Preventive Mechanism (NPM) to provide independent inspection of detention facilities, an important safeguard against torture.

In recent years Kazakhstan has made some progress towards implementing its international human rights obligations. For example, Kazakhstan increased the maximum punishment for torture and abolished the statute of limitations applicable to the offence of torture in its new Criminal Code that came into force in January 2015. The new Criminal Code also excludes those convicted of torture from benefitting from amnesties. In 2013, Kazakhstan set up an NPM and in 2014 NPM members started visiting "closed detention facilities".

In 2013, Kostanay City Court already made a decision on awarding compensation to a torture victim (Alexander Gerasimov) following the first decision made by the UN Committee against Torture in relation to an individual case from Kazakhstan. Like Rasim Bayramov, Alexander Gerasimov had applied to the UN Committee under the Individual complaints procedure.

Unfortunately, despite these positive measures, torture and other forms of ill-treatment continue to be widely used in Kazakhstan and further steps are needed to fundamentally improve the situation. Legal safeguards must be implemented consistently; Kazakhstan should establish an independent and effective mechanism for receiving complaints and conducting effective investigations into allegations of torture; and all torture victims should be awarded reparations from the state including compensation, rehabilitation, public apology and guarantees of non-repetition.

### **This statement has been signed by the following human rights groups:**

**Analytical Center for Interethnic Cooperation and Consultations** (Georgia), member of the Civic Solidarity Platform (CSP member)

**Azerbaijan Human Rights Centre**, CSP member

**Bir Duino – Kyrgyzstan Human Rights Movement**, CSP member

**Center for Civil Liberties** (Ukraine), CSP member

**Center for National and International Studies** (Azerbaijan), CSP member

**Center for the Development of Democracy and Human Rights** (Russia), CSP member

**Helsinki Citizens' Assembly – Vanadzor** (Armenia), CSP member

**Helsinki Committee of Armenia**, CSP member

**Helsinki Foundation for Human Rights** (Poland), CSP member

**International Federation for Human Rights** (France)

**International Partnership for Human Rights** (Belgium), CSP member  
**Kharkiv regional foundation Public Alternative** (Ukraine), CSP member  
**Legal Transformation Center** (Belarus), CSP member  
**Moscow Helsinki Group** (Russia), CSP member  
**NGO Coalition against Torture of Kazakhstan**  
**NGO Coalition against Torture of Kyrgyzstan**  
**NGO Coalition against Torture of Tajikistan**  
**Office of Civil Freedoms** (Tajikistan), CSP member  
**Promo LEX Association** (Moldova), CSP member  
**Public Verdict Foundation** (Russia), CSP member  
**Ukrainian Helsinki Human Rights Union**, CSP member  
**World Organisation Against Torture (OMCT)**