



S E N T E N C E
IN THE NAME OF THE REPUBLIC OF KAZAKHSTAN

22 June 2020

No. 7525-20-00-1/ 174

Almaty

District court No. 2 of the Medeus district of Almaty, composed of the presiding judge Makharadze Z. I., in the presence of the court clerk Zhaylyhanov S., with the participation of the state prosecutor Myrzagali D., defendant Ilyashev A. K., advocates - lawyers of the Almaty City Bar Association Nazkhanov T. K., Voronov V. I., Rakhmanov N. D., having examined, in an open court hearing in the main trial, per standard procedure, using the video conferencing "Truconf" and "Zoom," the criminal case in which:

Ilyashev Alnur Kairatovich, born on 11/02/1977, a native of Almaty, a Kazakh, a citizen of the Republic of Kazakhstan, university-educated, not married, not working, previously not convicted, living at 36 Zhambyl Street, apartment 4, Almaty, who received a copy of the indictment in a timely manner and who is under a preventive measure in the form of detention, was put on trial on charges of committing a crime under Article 274, Part 4, Clause 2 of the Criminal Code of the Republic of Kazakhstan,

DESCRIPTIVE PART:

Ilyashev Alnur Kairatovich has committed a criminal offense against public safety and public order under the following circumstances:

So, by Decree of the Head of State No. 285 dated March 15, 2020, in connection with the declaration of the new coronavirus COVID-19 as a pandemic by the World Health Organization, in order to protect the life and health of citizens living in the Republic of Kazakhstan, a state of emergency was introduced for the period from 08:00 a.m. on March 16, 2020 to 07:00 a.m. on April 15, 2020.

Ilyashev A. K., self-isolating at home at 36 Zhambyl Street, apartment 4, Almaty, from March 26 to March 31, 2020, in order to destabilize the situation

in the Republic of Kazakhstan, through a Facebook account, registered in his personal name under the login “Alnur Ilyashev” on the PC and published the following posts: on March 26, 2020, at 1:04 p.m., a post named *"The mountain gave birth to a mouse..."*, on March 28, 2020, at 3:27 p.m., a post named *"...Party of crooks and thieves..."*, on March 31, 2020, at 01:03 a.m., a post named *"... and many already know the habits of the usurper's party..."*, aimed at forming an opinion on the incapacity of the activities of public associations and authorities, which could lead to negative consequences during this period, thereby disseminating knowingly false information that endangers public order and causes substantial harm to the rights and legitimate interests of citizens and organizations using information and communication networks in the state of emergency.

MOTIVATION PART:

During the hearing, the defendant Ilyashev A. K. did not plead guilty to the charge in full. However, he confirmed with the court that he did have a Facebook page registered in his personal name under the login “Alnur Ilyashev.” He does not dispute the publication of posts on March 26, 28, and 31, 2020. He believes that he exercised his constitutional right to freedom of expression, and also further developed the article of the Constitution of the Republic of Kazakhstan on guaranteeing political diversity in the Republic of Kazakhstan. He does not take back his words and statements. He believes that his posts and publications are aimed at criticizing the dominant political forces in the country, responsible for the current socio-economic and socio-political situation in Kazakhstan. He reviewed the conclusion of the examination and believes that the conclusions of the experts are judgmental, based on their assumptions about the possibility of his alleged declarations as an excuse or occasion for any illegal actions. He believes that the information set forth in his posts published on March 26, 2020 at 1:04 p.m., March 28, 2020 at 3:27 p.m., and March 31, 2020 at 01:03 a.m., is reliable because it references specific media publications or participants in these events. For example, in the post dated March 26, 2020, which is titled "The mountain gave birth to a mouse," this expression is an established form of speech - a saying that meant that the fund created on the initiative of the chairman of the “Nur-Otan” party N. A. Nazarbayev was able to collect, at the time of publication, only 41 million USD. This fact was covered in relevant publications in the media of Kazakhstan. Considering who had initiated that action and made those contributions under the state of emergency, the amount of these



contributions, in his opinion, should have been bigger and should have amounted to hundreds of millions of US dollars.

In a post published on March 28, at 3:15 p.m., he poses a question to readers whether the “Nur-Otan” Party is a party of “crooks and thieves.” He put a question mark there. At the same time, he made references to media publications, including those controlled by the “Nur-Otan” party, which indicate that Iskakov, a member of the “Nur-Otan” party and akim of the Kyzylorda region, had been detained on suspicion of committing a crime against property, and also to a publication stating that the person had been previously supported by the first deputy chairman of the “Nur-Otan” party Baybek B. K. Considering that akims of other districts and other members of the “Nur-Otan” party had been previously detained, as known from open sources in the media, he considers it appropriate that he shared this with the public.

His post dated March 31 was published at 01:03 a.m. It stated that earlier he and his comrades, other civic activists Danaya Kalieva, Aizhan Kenes, and Kaisha Bimoldanova, to whom he addressed his post, had jointly packaged food packages for those in need as volunteers at the “Magnum” warehouse in the “Aport” shopping center. Moreover, nobody from the “Nur-Otan” party was with them at that time, just like in the following days. But the media indicate that the “Nur-Otan” party distributes these food packages to those in need on its own behalf, that it attributes merit exclusively to themselves and their members, being silent about the fact that other social forces, civil activists critical of the “Nur-Otan” party, also participated in that process. He called this “media looting”, as he was indignant at this fact.

He supports the position of his defenders who insist on the verdict of acquittal.

The guilt of Ilyashev A. K., despite his non-admission of guilt, is fully confirmed by the written evidence collected in the case and examined in court.

Thus, according to the findings of forensic psychological and language examination No. 2304 of April 17, 2020, with the one-time involvement of a political scientist as an expert, the information of the text of the posts of the user “Alnur Ilyashev”, submitted to the examination, contains negative information regarding the non-governmental organization (NGO) “Nur Otan Party”, expressed in the affirmative form and in the form of value judgments. The presence of negative information in the examined materials characterizing the activities of the NGO “Nur Otan Party” can affect the formation of negative public opinion. “The materials presented contain signs of information which indicate danger and the likelihood of negative consequences in terms of



disturbing public order in a state of emergency or causing substantial harm to the interests of citizens, organizations, and the state.” (vol. 1, ld 79-87).

The expert Akbarova R. A., who was questioned by the court at the defense’s request, subscribed to her opinion in full. It was explained to the court that, in the state of emergency, the dissemination of publications, the semantic content of which is aimed at escalating the situation by predicting negative scenarios, criticizing the actions taken by the authorities in the period of the state of emergency and aiming at the formation of "lack of trust in the measures taken by state bodies and the ruling political party to maintain the epidemiological, social and domestic political situation in the country, endangers, in this case, public order or causes substantial harm to the interests of citizens, organizations, and the state itself. “The dissemination of such materials during a period in which the majority of the population is experiencing a stressful, unstable emotional state, associated with the need for self-isolation and observance of quarantine regulations, as well as loss of income, attracts a large number of like-minded individuals to the published socio-political opinions. That is, the more people participating in the discussion while posting approving comments, the greater the likelihood of influencing the political preferences of a wide range of people.” “The consequences of such negative attitude in the state of emergency in the mass consciousness of the society can cause acts of civil disobedience, including unauthorized rallies during the state of emergency, and, as a result, mass non-compliance with quarantine, which in turn will lead to the mass spread of the disease, social tension, acts of looting and, as a result, harm to citizens and organizations.” In addition, political disobedience can be used by various organizations for certain purposes, including impacting political actions, including civil clashes. That is, publications in the public media implying that the government is not able to cope with existing socio-political issues and problems in the country under the state of emergency poses a danger of disruption of public order and possible substantial harm to the interests of citizens, organizations, the state itself, and the international image of the Republic of Kazakhstan.

The report of the operational officer of the UPE DP of the city of Almaty Seitkanov R. N. confirms that while monitoring social networks on “YouTube” messenger, he published a video message from civil activists aimed at disseminating negative, fake information, as well as discrediting the current



government of the Republic of Kazakhstan. This fact was registered in the ERDR on 04/08/2020 (vol. 1, ld 5-7);

The protocol of inspection of objects and documents dated 04/14/2020 (vol. 1, ld 14) confirms that, on the investigator's behalf, an account registered under the login Alnur Ilyashev (Альнур Ильяшев), link to the page of the social network <https://www.facebook.com/alnur.Ilyashev>, was reviewed, 51 screenshots of the pages were made, including three of which were the cause of the charge, published on March 26, 28, and 31, 2020 (vol. 1, ld 14).

Screenshots of publications, printouts of posts on the Facebook web page registered in Alnur Ilyashev's name confirm the text and content of Ilyashev's posts (volume-1, ld 15-65);

The decisions on the search at the place of work, place of residence, and of the car owned by Ilyashev A. K., which are authorized by the investigating judge, confirm the legality of the procedural actions.

The search protocol for the office located at 29 Samal-1 microdistrict, Almaty, office A5, dated April 17, 2020, confirms the removal of the black processor and documents.

The search protocol at Ilyashev's place of residence dated 04/17/2020 at Almaty, 33 Omarova Street, Apt. 47, confirms the discovery and seizure of an Apple MacBook, cell phones, the book with the title "Muhammad", a letter to N. Nazarbayev on 11 sheets, bank cards, a check indicating a bank transfer, and a flash card.

The search protocol at Ilyashev's place of residence dated 04/17/2020 at Almaty, 36 Zhambyl St. confirms the discovery and seizure of iPhone cell phones in the amount of 4 items, one push-button telephone, hard drives, an iPhone tablet, a system unit, a monoblock, two seals, newspapers, notebooks, flash cards, A4 paper with ready-made text, two identity cards, a poster with an inscription in relation to Elbasy (volume 1, ld 125-127);

The protocol of inspection of the scene of action dated 04/18/2020 confirms the seizure of various LLP stamps, a blue bag, a CD in a paper envelope with an inscription in Arabic, the book "Kurban Kitapshasy customs in Islam", the Hadith of the prophet on the rules of conduct, the book "On the Sacred meanings of Hajj pilgrimage", a black mobile phone, 6 boxes of seals, a badge in the name of Ilyashev A., a cell phone, a brown-colored vegetable substance with a specific smell, a glass bottle with a liquid, foreign currency, an airline passenger kit, and coins (volume-1, ld 128-130)



By the decision of the Zhetysu District Court of Almaty dated November 18, 2019, it is confirmed that Ilyashev A. K. was the defendant in the claim of the NGO “Nur Otan Party” on the protection of honor and dignity and compensation for moral harm, which was satisfied. The information distributed by Ilyashev A. K. and other persons posted on their personal Facebook pages "about obstruction to the creation of the party "Our Right" by the NGO "Nur Otan Party"" were recognized as untrue and discrediting the business reputation of the NGO “Nur Otan Party” (vol. 2, ld 19-30).

By the decree of the investigator of the SU DP of the city of Almaty dated April 22, 2020, materials regarding unidentified persons under Article 274, Part 4, Clause 2 of the Criminal Code were set out as separate proceedings (vol. 2, ld 44).

Based on this, the court considers that the defendant, knowing that his Internet page is open to a wide range of readers, with free access for subscribers and friends, by publishing posts on the pages mentioned above, which contain signs of knowingly false information that creates danger and the probability of the occurrence of negative consequences in terms of disturbing public order or causing substantial harm to the interests of citizens and organizations using the means of information and communication networks in the state of emergency, thereby committed deliberate actions aimed at disseminating knowingly false information that endangers public order.

The analysis of the evidence collected in the case and examined by the court gives reason to believe that they are admissible, reliable, and sufficient to find Ilyashev A. K. guilty under Article 274, Part 4, Clause 2 of the Criminal Code of the Republic of Kazakhstan, since he, in his posts from March 26 to March 31, 2020, during the state of emergency, disseminated knowingly false information, endangering public order and causing substantial harm to the rights and legal interests of citizens and organizations using information and communication networks.

The body of pre-trial proceedings has correctly qualified his actions under Article 274, Part 4, Clause 2.

The court considers invalid the defense’s arguments regarding A. Ilyashev’s innocence in the act he is accused of and regards the recognition of certain procedural documents as legally unsound evidence, on the following grounds.

In support of its position regarding Ilyashev A. K.’s innocence, the defense applied to the pre-trial proceedings body and the court for the inclusion of expert opinions and the examination of witnesses in the case file. The application was partially granted.



The prosecuting authority appended the opinion of the expert Karymsakova R. D. dated May 2, 2020 to the case materials. The expert, at the request of the lawyer T. Nazkhanova, made a linguistic analysis of the three posts published by A. Ilyashev on March 26, 28, and 31, 2020, and came to the conclusion that the predominant part of the information presented in the posts is evaluative. In fact, this conclusion does not contradict expert opinion No. 2304 of April 17, 2020 regarding the linguistic analysis. However, the court cannot accept it as evidence of A. Ilyashev's innocence since it does not fully meet the task of the presence or absence of endangering the public order. The defender did not raise such a question before the expert since she does not have special knowledge in this area.

Also, the court was presented with the conclusion of the expert Satpaev D. A., dated May 28, 2020, who had conducted a political science examination that, from his point of view, did not reveal signs of the presence of information that would endanger public order. The expert Satpayev did not attach any documents confirming his authority to conduct a political science examination to his conclusion. In addition, the procedure and conditions for appointing and performing the examination established by virtue of the norms of the Code of Criminal Procedure of the Republic of Kazakhstan were not observed in this case. The expert's opinion, both in form and content, does not meet the requirements for an expert's conclusion by the norms of the Code of Criminal Procedure of the Republic of Kazakhstan and cannot be taken as evidence of Ilyashev A. K.'s innocence.

In addition, the defense presented a statement by expert-psycholinguist Kairzhanov A. K. dated May 18, 2020 that reviews the expert conclusion No. 2304 of 04/17/2020, in which he concludes that the experts' conclusions are legally unsound. The court cannot accept this review as evidence of Ilyashev A. K.'s innocence either, for the following reasons.

According to Article 117 of the Code of Criminal Procedure of the Republic of Kazakhstan, the expert's opinion is an official document drawn up in accordance with the requirements of Part 3 of this article and submitted in writing, reflecting the contents of the study and conclusions on the questions posed to the expert by the person conducting the criminal procedure, or by the parties.

The procedure for appointing an examination, preparing a report on the impossibility of providing an opinion, the rights and obligations of a suspect, defendant, victim and his/her representative, witness, and defense attorney when appointing and conducting an examination, guaranteeing the rights and legitimate interests of the persons under investigation, the right of participants to attend during the investigation, the legal requirements for the objects of investigation,



the procedure and legal consequences of presenting an expert's conclusion to the suspect and the victim, the grounds and procedure for obtaining samples for investigation are established by Chapters 34 and 35 of the Code of Criminal Procedure, taking into account the specifics of the investigation conducted by an expert.

However, the defense side violated these norms of the criminal procedure legislation. In addition, according to Part 2 of Article 125 of the Code of Criminal Procedure of the Republic of Kazakhstan, the subject of the assessment of evidence is the judge, prosecutor, investigator, interrogating officer.

According to Paragraph 6 of the Normative Decree of the Supreme Court of the Republic of Kazakhstan No. 16 dated 11/26/2004 "On forensic examination in criminal cases", the resolution on the appointment of an examination cannot address legal issues that are not within the competence of the expert, as well as other non-relevant issues.

The court considers that the expert Kairzhanov A. K. did not have the right to evaluate the forensic-psychological and language examination carried out in the case and to draw the legal conclusion that he actually made.

Under such circumstances, by virtue of Art. 117, 124, 125 of the Code of Criminal Procedure of the Republic of Kazakhstan, the conclusions of experts Karymsakova R. D. from 05/02/2020, Satpayev D. from 05/28/2020, and the review of an expert-psycholinguist Kairzhanov A. K. from 05/18/2020 are not accepted by the court as relevant, admissible, and reliable evidence and cannot be the basis of a sentence.

At the request of the defense, witnesses Kenes A., Kalieva D., and expert Satpayev D. were interrogated.

Expert Satpayev D. confirmed his conclusion, giving testimony similar to the information contained in the conclusion.

Witness Kenes A. testified to the court that she had known A. Ilyashev for more than one year, having met him at one of the party meetings organized by Togzhan Togonalieva. The witness confirmed to the court that she had read Ilyashev A. K.'s post published on March 31, 2020 at 01:03 a.m. named "..... And many people already know the habits of the ruling party of usurpers, as they have no illusions about its great generosity..." and explained that the action "Byz Byrgemyz" was announced during the state of emergency, and she and her comrades, other civic activists Danae Kalieva, Ilyashev Alnur, and Kaisha Bimoldanova decided to help people in need. It was a civic initiative. Their help consisted in the fact that, as volunteers, they were packing food packages for those in need at the "Magnum" LLP warehouse in the "Aport" shopping center. No one



from the “Nur-Otan” party was with them at that time. The witness confirmed that she had read all three posts and reported that she personally had no negative emotions after reading them. She believes that there was no call for disruption of public order in those posts.

Witness Kalieva D. testified to the court that she and Ilyashev A. K. are family friends. The witness confirmed that she had read the posts published by Ilyashev A.K. on March 26, 28, and 31, 2020. She confirmed that she also took part in the packaging of food products in “Magnum” LLP. She reported that the posts did not provoke any negative emotions in her.

The testimonies of defense witnesses can not serve as a basis for the acquittal of Ilyashev A., either. On the contrary, the witnesses confirmed that they had only assisted in the packaging of food products, without knowing where the money for purchasing them had come from.

The fact that members of the NGO “Nur Otan” party were not present when packaging products does not give Ilyashev A. K. the right to claim that these bags belonged to him and other activists. Ilyashev A. refers to information from the media which says that it was the NGO “Nur Otan Party” that provided support to socially vulnerable segments of the population and that it was not by packaging the products, but by providing money with which those products had been purchased. That is, he is fully aware of the real situation, but he allows himself to make incorrect statements related to the NGO “Party Nur Otan” in his post.

The court considers the defense’s arguments that the above-mentioned witnesses did not experience negative emotions to be irrelevant because, at the defense’s request, screenshots of the indicated posts were attached to the case materials, and during their review in the court session it was established that the posts had been viewed and commented on by a large number of users. In the comments, social network users expressed their indignation and resentment, indicating the dissemination of knowingly false information, endangering public order, and causing substantial harm to the legitimate interests of citizens and organizations using the means of information and communication networks in the state of emergency.

For example, the post "The mountain gave birth to a mouse..." got 82 negative comments, and the post "... Party of crooks and thieves..." got 134 comments.

The defense’s arguments on the illegality of the conclusion of the forensic psychological and language examination No. 2304 dated 04/17/2020 with the involvement of a political scientist as an expert in a one-time manner due to the



fact that it had to be carried out in a short time, and Akbarova R.'s conclusions made on the basis of the totality of the submitted posts, are also considered to be legally unsound by the court. The law sets the deadlines for the examination and the grounds for their extension, but there is no time limit for the examination itself. In the descriptive part of the examination, precisely the three posts by A. Ilyashev published under the conditions of the state of emergency (Id 16 of the expert's opinion) are evaluated. The conclusion of the psychological and language examination No. 2304 of April 17, 2020 and its content and form comply with the requirements of Art. 116, 283 of the Code of Criminal Procedure. The conclusion contains substantive answers to the questions posed, indicates the objects of examination and their condition, provides the rationale and formulation of conclusions, and indicates the methods used. The experts were warned of criminal liability for giving a knowingly false expert opinion, of which there is a note in the conclusion. In connection with the foregoing, this conclusion is accepted by the court as reliable evidence; it confirms the presence in the material shared by Ilyashev A. K. on Facebook of signs of information that creates danger and the probability of negative consequences in terms of disturbing public order in the state of emergency or causing substantial harm to the interests of citizens, organizations, and the state. The court has no grounds for declaring this opinion unlawful.

The court assesses the defendant's arguments that, by publishing these posts, he relied on media publications and merely shared his opinion, and he had no intention of disseminating false information, as a way of defense against the prosecution, since the defendant's guilt on the charge is fully proved by the evidence collected and investigated by the court.

In addition, the court considers that the defendant understood the factual nature of the false information he posted, its public danger to the citizens of the Republic of Kazakhstan, and wanted users and readers to learn about this false information.

Thus, the defendant pursued the goal of disseminating knowingly false information and endangering public order and causing substantial harm to citizens and organizations.

The court considers Ilyashev A.'s arguments that he was entitled to make critical statements and that he did not intend to endanger public order to be an evidence-free defense position since, according to the disposition of Art. 274 of the Criminal Code of the Republic of Kazakhstan, the dissemination of knowingly false information that endangers public order or causes substantial harm to the rights and legitimate interests of citizens or organizations or the



interests of society or the state protected by law and the ownership of the subject of the criminal offense does not matter. This false information creates a public danger to citizens and violates public order.

The defendant and his lawyers' petition to recognize the protocol for the capture of screenshots, printouts of posts dated March 26, 28, and 31, 2020; the protocols for the inspection of publications, searching the place of residence, the personal search, detention, and inspecting the place near building No. 6; the investigator's resolution on separation of a criminal case into a separate proceeding; and the materials collected in the case before 04/18/2020 regarding the non-observance of the language of the court proceeding as unacceptable evidence cannot be satisfied since the defendant himself does not deny publishing these posts. Regarding the search protocol dated 04/17/2020, the search of the apartment in Omarova St., as can be seen from the protocol, was carried out in the presence of both a minor, A. N. Ilyashev, and an adult, S. M. Isaeva, born on 12/10/1977. Regarding other search protocols, according to Articles 122, 123 of the Code of Criminal Procedure, the use of technical capture tools during the provision of documents is the right of the body conducting the criminal process and not its obligation.

In accordance with Art. 252 of the Code of Criminal Procedure, a search is carried out with the aim of detecting and seizing objects and documents relevant to the case. The grounds for the search is the availability of sufficient data to believe that the indicated objects or documents may be in a certain room or other place or in the possession of a specific person.

The lawyer's arguments on the recognition of the protocol of the inspection of the area as unacceptable in view of violations of the rules of the Code of Criminal Procedure are considered by the court to be legally unsound for the following reasons. As can be seen from the protocol during the inspection of the territory near 6 Zhambyl Street on 04/18/2020, the seals of various LLPs and a bag with a blue strap were found. The following was found inside the latter: a CD in a paper envelope with an inscription in Arabic, the book "Kurban Kitapshasy customs in Islam", the Hadith of the prophet on the rules of conduct, the book "On the Sacred meanings of Hajj pilgrimage", a black mobile phone, 6 boxes of seals, a badge in the name of Ilyashev A., a cell phone, a brown-colored vegetable substance with a specific smell, a glass bottle with a liquid, foreign currency, an airline passenger kit, and coins (volume-1, Id 128-130).

As can be seen from the case file, the investigator has set aside a separate proceeding, and according to the information obtained during the judicial investigation by the state prosecutor, an examination of the seized objects is



under way. After receiving the examination opinion, procedural decisions will be made in the framework of the separate criminal case.

The court does not discern violations of the requirements of the Code of Criminal Procedure of the Republic of Kazakhstan that could affect the reliability of the received evidence.

The court also considers the defendant's arguments that this is a contract-style case initiated by the authorities as a means of prosecuting the defendant for his political convictions to be far-fetched, since the pre-trial investigation was initiated in accordance with the requirements of Articles 179, 184 of the Code of Criminal Procedure of the Republic of Kazakhstan.

The evidence collected is consistent and detailed and does not raise doubts about its reliability.

The evidence gathered is sufficient. There are no grounds for terminating the criminal case or freeing Ilyashev A.K. from detention.

In accordance with Art. 52 of the Criminal Code of the Republic of Kazakhstan and Paragraph 1 of the Normative Decree of the Supreme Court of the Republic of Kazakhstan, No. 4 of June 25, 2015 "On Certain Issues of Assigning Criminal Sentence", when imposing a criminal sentence, courts should strictly observe the general rules for sentencing specified in Article 52 of the Criminal Code, as well as take into account the category of severity of the criminal offense, the presence of recidivism and its type, the stage of the criminal offense, the degree of participation of the defendant in the commission of the criminal offense, the importance of his actions to achieve the goal of the criminal offense, and the impact on the nature and extent of the caused or possible damage, whether there is a combination of criminal offenses, the presence of mitigating and aggravating circumstances, and the grounds for imposing a milder sentence than the one prescribed for the given criminal offense.

By imposing a sentence by virtue of Article 52, part 3 of the Criminal Code of the Republic of Kazakhstan, the court takes into account the nature and degree of public danger of the criminal offense, the identity of the guilty person, including his behavior before and after the offense, circumstances mitigating and aggravating responsibility and punishment, as well as the influence of the imposed sentence on the correction of the convicted person and on the living conditions of his family or persons dependent on him.

In accordance with Article 53 of the Criminal Code of the Republic of Kazakhstan, the circumstances mitigating criminal liability and punishment in relation of A. K. Ilyashev are his positive reputation and the presence of two



children - daughter Ilyasheva Ailan Alnurgyzy, born on 08/08/2002, and son Ilyashev Daut Alnurovich, born on 12/16/2019, who is a minor.

In accordance with Article 54 of the Criminal Code of the Republic of Kazakhstan, there are no circumstances aggravating criminal liability and punishment of the defendant A. K. Ilyashev.

In sentencing the accused, Ilyashev A. K., the court, taking into account the nature and degree of public danger of the criminal offense, the defendant's personality, his first conviction, circumstances mitigating responsibility and punishment, the absence of aggravating circumstances, and the effect of the penalty imposed on the correction of the convicted person, considers it possible to impose a sentence not related to deprivation of freedom.

In accordance with Part 2 of Art. 55 of the Criminal Code of the Republic of Kazakhstan, the term or amount of punishment for committing a serious crime may not exceed two-thirds of the main type of punishment provided for in the corresponding article of the Criminal Code of the Republic of Kazakhstan.

In accordance with Part 3 of Art. 50 of the Criminal Code, taking into account the nature and degree of public danger of the committed act, the court considers it necessary to give the accused Ilyashev A. K. additional punishment in the form of deprivation of the right to engage in public and social activities on voluntarily serving the political, cultural, professional needs of society, creating and taking part in the activities of political parties, public associations and foundations for a period of 5 (five) years.

In accordance with Part 2 of Art. 10 of the Law of the Republic of Kazakhstan dated 01/10/2018, No. 131-VI "On the Compensation Fund for Victims", upon conviction by the court, guilty persons must make a payment to the Compensation Fund for Victims based on Articles 98-1 and 98-2 of the Criminal Code of the Republic of Kazakhstan.

According to Article 98-2 of the Criminal Code of the Republic of Kazakhstan, a compulsory payment is collected by the court in the manner prescribed by the legislation of the Republic of Kazakhstan on the Victim Compensation Fund in the amount of 20 (twenty) monthly calculation indices in the case of serious crimes.

Based on Articles 98-1, 98-2 of the Criminal Code of the Republic of Kazakhstan, the defendant A. K. Ilyashev must make a compulsory payment to the Victim Compensation Fund in the amount of 20 (twenty) monthly calculation indices, which amounts to 53,020 (fifty-three thousand twenty) tenge.

In accordance with Articles 177, 178 of the Code of Criminal Procedure of the Republic of Kazakhstan, the defendant A. K. Ilyashev shall cover the



procedural costs in favor of the state in the amount of 75,114 (seventy-five thousand one hundred and fourteen) tenge 6 (six) tyin spent on examination No. 27-12/1270.

The future of material evidence must be resolved in accordance with Article 118 of the Code of Criminal Procedure of the Republic of Kazakhstan.

RESOLUTIVE PART:

Guided by 390, 393, 395-398, 401, 414, 417-418 of the Code of Criminal Procedure of the Republic of Kazakhstan, the court

S E N T E N C E D:

To find Ilyashev Alnur Kairatovich guilty of an offense under Article 274, Part 4, Paragraph 2 of the Criminal Code of the Republic of Kazakhstan and, under this article, to sentence him to 3 (three) years of personal restraint by involving him in forced labor for one hundred hours annually during the entire sentence period.

Based on Article 62, Part 3-1, Clause 2 of the Criminal Code of the Republic of Kazakhstan, to set off the time of detention in custody of Ilyashev A. K. from the moment of his detention on April 17, 2020 to June 22, 2020, i.e. 2 (two) months and 5 (five) days in total, on the following basis: one day of detention for two days of serving the sentence in the form of personal restraint.

Based on Article 44 of the Criminal Code, to establish probation control for Ilyashev Alnur Kairatovich for the entire sentence period of 3 (three) years with the establishment of duties: not to change the permanent place of residence or work without notifying the authorized state body that monitors the convicted person's behavior.

Control over the convict's behavior shall be assigned to the probation service at the convict's place of residence.

Ilyashev must appear before the specialized body for registration within 10 days after the sentence comes into force.

It shall be explained to the convicted Ilyashev Alnur Kairatovich that, based on Part 3, Article 44 of the Criminal Code, in case of malicious evasion of personal restraint, the unserved term will be replaced by imprisonment on the following basis: one day of imprisonment for one day of personal restraint.

According to Article 50, Part 3 of the Criminal Code of the Republic of Kazakhstan, to assign an additional punishment for Ilyashev A. K. in the form of



deprivation of the right to engage in civil and public activities on voluntarily serving the political, cultural, and professional needs of society, on creating and taking part in the activities of political parties, public associations and foundations for a period of 5 (five) years.

The court changed the preventive measure for Alnur Ilyashev from detention to a travel restriction and good behavior until the sentence comes into force. To release him from custody immediately. After the sentence comes into force, the preventive measure of a travel restriction and good behavior should be cancelled.

To make Ilyashev A. K. cover the procedural costs spent on the examination of the case in the amount of 75,114 (seventy-five thousand one hundred and fourteen) tenge 6 (six) tiyin to the Treasury. The payment details are as follows: RSU "State Revenue Management for the Bostandyk district of the Department of State Revenue Ministry of Finance of the Republic of Kazakhstan", BIN 910740000044, KBE 11, IIK KZ 24070105 KZN0000000, BIC KKMFKZ 2 A, CODE 16, KNP 979, KBK 202101.

To make Ilyashev A. K. pay the Victim Compensation Fund the amount of 20 (twenty) monthly calculation indices, that is, 53,020 (fifty-three thousand twenty) tenge.

Material evidence in the case - 51 sheets of screenshots of publications from Alnur Ilyashev's account - is to be kept in the case file.

To keep all the seized documents in the criminal case file, which has been set aside in a separate proceeding.

An appeal may be filed against the verdict or the petition of the prosecutor may be brought to the Almaty City Court through District Court No. 2 of the Medeu District of Almaty within fifteen days from the date of declaration.

Judge

Makharadze Z. I.

