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TRIAL OF ACTIVIST IN KAZAKHSTAN SHOWS HOW GOVERNMENTS MISUSE COVID-19 TO SUPPRESS SPEECH

This statement can be attributed to a spokesperson for the Clooney Foundation for Justice. For further inquiries, please contact media@cfj.org

Trial Grade: D

CHARGES

‘Spreading Knowingly False Information During an Emergency’

OUTCOME

[Convicted and Sentenced to Three Years Probation and a Five Year Ban on Public Activities](#)

TRIALWATCH MONITOR

American Bar Association
Center for Human Rights

FAIRNESS REPORT

Vânia Costa Ramos and Staff
at the American Bar
Association Center for Human
Rights

March 11, 2021

A TrialWatch Fairness Report released today concludes that Kazakhstan’s prosecution of a well-known activist violated his rights to freedom of expression and a fair trial. His conviction is an example of how Kazakhstan is using COVID-19 as a [pretextual ground](#) to [clamp down on speech](#), in particular on the internet—often the only space left for dissent during the pandemic. As a result, he has been banned from participating in public life for five years. Indeed, turning the international law protections for political speech on their head, the court suggested that the “likelihood of influencing the political preferences of a wide range of people” given their “emotional state” due to COVID-19 was a reason to criminalize speech.

The activist, [Alnur Ilyashev](#), was convicted of ‘spreading knowingly false information during an emergency,’ for three social media posts in which he accused Kazakhstan’s ruling party of corruption and incompetence. For example, in commenting on the arrest of a party figure he asked the question, “Party of Crooks and Thieves?” He also suggested that the ruling party’s COVID-19 fundraising had been a “mountain [giving] birth to a mouse”—in other words, a much touted but inadequate effort. The Report, released in advance of a decision on Mr. Ilyashev’s final appeal, finds that the remote proceedings prevented him from effectively defending himself, making motions or questioning witnesses, among other violations, and “stemmed from improper motivations.” It gives the trial a grade of ‘D’ on an A-F scale.

Vânia Costa Ramos, the TrialWatch Expert who authored the Report along with staff at the American Bar Association Center for Human Rights, said, “This case shows the pitfalls of virtual trials. The defendant’s rights were repeatedly violated as a result of poor connectivity and the authorities’ failure to provide a way for him to consult with his lawyers. Kazakhstan needs to take immediate steps to ensure that virtual proceedings protect the rights of defendants.” **CFJ also urges Kazakhstan to stop prosecuting critical speech as ‘fake news’ and calls on the Attorney General of Kazakhstan to petition the Supreme Court to review Mr. Ilyashev’s conviction.**

BACKGROUND

Mr. Ilyashev was [convicted on June 22, 2020](#) following proceedings monitored by CFJ's partner, the American Bar Association Center for Human Rights, as part of CFJ's TrialWatch initiative. He appealed and CFJ [filed an amicus brief](#) urging reversal of his conviction. Although the appellate court reopened the evidentiary record in response, it [upheld the lower court's decision in full](#) on September 15, 2020. The Kazakh Supreme Court recently denied Mr. Ilyashev's further appeal. Mr. Ilyashev has asked the Attorney General to direct the Supreme Court to re-examine his case, his final opportunity for review at the domestic level. If the Attorney General does not take action, CFJ will work with Mr. Ilyashev and his counsel to submit a communication to the United Nations Human Rights Committee.

The TrialWatch Fairness Report finds that Mr. Ilyashev “did not receive a fair trial.” It concludes that the proceedings “entailed severe violations of [his] right to defend himself, right to effective participation in the proceedings, right to call and examine witnesses, right to presumption of innocence [and] right to judicial impartiality” including because:

- Repeated technical problems with the videoconferencing feed during the trial “prevented Ilyashev and [his] counsel from making motions, presenting arguments, and questioning witnesses;”
- The court did not provide Mr. Ilyashev with a way to communicate with his defense team confidentially and he “was unable to confer with counsel about strategy at ... vital junctures;”
- The court prevented Mr. Ilyashev “from fully cross-examining the prosecution’s primary expert and from calling witnesses and experts key to his defense;”
- The prosecution did not meet its burden of proof, instead making “[v]ague references to the pandemic and the population’s emotional state,” rather than showing how “Ilyashev’s posts posed a risk to societal order,” as required by domestic law; and
- “[T]he court either rejected without reasoning or ignored defense motions while broadly granting police and prosecutor requests rais[ing] ... significant concerns that Ilyashev did not benefit from trial by an impartial tribunal.”

The Report also finds that Mr. Ilyashev was kept in arbitrary pre-trial detention and denied medical care while in custody, in violation of his right to humane treatment.

For a full legal analysis of the trial and explanation of the grade that has been provided, please see the [Fairness Report](#).

ABOUT THE CLOONEY FOUNDATION FOR JUSTICE'S TRIALWATCH INITIATIVE



The Clooney Foundation for Justice's [TrialWatch®](#) initiative monitors and grades the fairness of trials of vulnerable people around the world, including journalists, women and girls, minorities, LGBTQ+ persons and human rights defenders. Using this data, TrialWatch advocates for victims and is developing a Global Justice Ranking measuring national courts' compliance with international human rights standards.