
**To: General Prosecutor of Kazakhstan,
Mr. Mami Kajrat Abdrazakovich**

**OPEN LETTER REGARDING KAZAKSTANI SUPREME COURT HEARING ON THE ADMISSIBILITY
OF THE CASE OF HUMAN RIGHTS DEFENDER YEVGENI ZHOVTIS**

Brussels, 23 April 2010

Dear Mr. General Prosecutor,

I'm writing to you on behalf of the International Partnership for Human Rights (IPHR) with regard to the case of Yevgeni Zhovtis, founding director of the Kazakhstan International Bureau for Human Rights and Rule of Law, whose case the Supreme Court of Kazakhstan is scheduled to consider on grounds of admissibility on 26 April 2010.

We know Zhovtis as a highly knowledgeable, informed and dedicated human rights defender, who for two decades has been engaged in tireless efforts to promote compliance with international human rights standards in Kazakhstan and to ensure a just and fair Kazakhstani society based on the rule of law.

As you know, on 3 September 2009, the Balkhash district court of Almaty Oblast found Zhovtis guilty of manslaughter in connection with a fatal car accident and sentenced him to four years imprisonment (article 296, part 2 of the Criminal Code of Kazakhstan). On 20 October 2009, the Taldykurgan Province Court upheld the sentence on appeal. In January 2010 the defense team of Zhovtis submitted a petition for a review of the case to the Supreme Court of Kazakhstan, using an opportunity created by recent amendments to national legislation.

We would like to draw your attention to the fact that the investigation, initial trial and appeal hearing in this case were characterized by serious procedural violations that denied Zhovtis the right to present an effective defense and gave rise to suspicion that the conviction against him may have been politically motivated.

During the investigation, Zhovtis was initially treated as a witness in the case and was not promptly informed that his status had been changed to that of a suspect. This deprived him of the ability to exercise the full rights of a suspect from the beginning of the process.

The September trial, which was completed over the course of two days, was marred by numerous irregularities. All defense motions challenging evidence put forward by the prosecution were either rejected or ignored. The judge did not allow any of the expert witnesses appointed by the defense to testify in court and did not take into consideration any of the written evidence put forward by the defense, including a statement from the victim's relatives that Zhovtis had extended an apology to them and provided them compensation (although, in accordance with article 67 of the Criminal Code of Kazakhstan, such a settlement should have resulted in termination of the proceedings). The judge also did not grant the defense adequate time to prepare a final statement and read out the verdict only 25 minutes after the trial had ended, which gave rise to suspicion that the text had been prepared in advance. The court handed down a sentence close to the maximum one possible under the relevant article of the Criminal Code without explaining this decision.

The October appeal hearing took place in the absence of Zhovtis, who was not allowed to attend it despite a request from him to this end. The hearing did not consider all facts of the case and again failed to give due attention to the motions of the defense. It upheld the harsh sentence against Zhovtis without providing any justification.

Mr. General Prosecutor, we call on you, as the guarantor of accurate and uniform implementation of the law in Kazakhstan, to give due attention to the concerns raised in this letter, which are based on information from non-governmental organizations that have closely monitored this case.¹ We ask you to:

1. Support the request of defense lawyer Vitaly Voronov at the Supreme Court hearing to initiate a supervisory procedure to review the appealed sentence;
2. Ask that Zhovtis be released from serving his sentence pending a review of the case in light of the procedural violations mentioned in the letter, as well as the fact that he has reconciled with the victim's family and paid damages.

Sincerely,

Brigitte Dufour, Director
International Partnership for Human Rights
Brussels, Belgium

¹ For more detailed information, see in particular
<http://www.soros.org/initiatives/justice/litigation/zhovtis/briefing-memo-20100201.pdf>