

Statement of the delegation of Kazakhstan on recent trials in Zhanaozen town

From the outset, the authorities of Kazakhstan have made every effort to make the court proceedings related to disturbances in Zhanaozen open and transparent, including the provision of special facilities including an ante-room with a live-video feed of the proceedings, to allow additional space for interested parties, including relatives of the victims and defendants, representatives of human rights organisations and international observers. The court also provides briefings of the proceedings following each day's event.

The Office of the Prosecutor-General conducted a thorough and methodical investigation interviewing 1 149 potential witnesses and gathering 2 277 witness report. Investigators have reviewed hours of footage and first hand reports and more than 200 forensic tests have been conducted to establish a full account of events.

We are pleased to note that our partners – European Union and its Member states, the United States as well as a number of international observers acknowledged our efforts for transparency and openness of the trials in their evaluations as well as media access.

We have been determined to bring to justice those responsible for unlawful deaths in Zhanaozen on 16 December 2012. The investigation and court proceedings have found that a small group of individuals were responsible for turning what had been a long-running, relatively peaceful protest into a violent riot. They have been held accountable for their actions, as have the senior officials whose conduct contributed to the outbreak of violence and mishandling of events on the day.

At the OSCE Permanent Council meeting held on the 21st of June in Vienna the EU Representative thanked the OSCE Centre in Astana and the delegation of Kazakhstan for the continuous information provided with regard to the events in Zhanaozen in December 2011 and the ensuing developments.

At the same meeting in Vienna the US Delegation noted the following:

“We recognize that Kazakhstan has faced unprecedented challenges over the past six months, beginning with the violent protests in western Kazakhstan in December 2011. We appreciate the efforts of the Center, the government of Kazakhstan, and civil society to understand the full truth about both the underlying causes of the unrest and the specific actions taken during these events, as well as all parties' willingness to share their findings with participating States. We are heartened by the transparency of the trials in Aktau, as well as media access. We welcome the

government's attempts to bring to justice, not only private persons who broke the law by engaging in violent acts, but also police and other officials who abused or over-stepped their authority".

We recognise that there are difficult lessons for Government at all levels – local, regional and national - to learn from the tragic events in Zhanaozen. Over the last six months, we have looked closely at how officials responded to the violence, and the longer term issues that may have contributed to the outbreak of unrest in the region.

As the investigation and the subsequent legal proceedings brought against officials have found, the authority's response to the unrest was in places disproportionate and it is clear that the police were not adequately trained or prepared to manage a riot situation. Authorities also failed to effectively address the legitimate concerns of oil workers and the local community and the Government has now put in place measures and policies to address these problems."

A details of the Government's response to Zhanaozen and the criminal proceedings can be found in the Non-Paper.

Non-paper

Zhanaozen – Six months later

1. Introduction

On 16th December 2011, a long-running employment dispute in Zhanaozen, in the Mangistau region of Western Kazakhstan, turned violent. A protest by former workers of the OzenMunaiGas company, who had lost their jobs in the dispute, deteriorated into a riot and confrontation with the police. As a result of the unrest, 16 people died and 64 were injured, including 17 law enforcement officials. A second incident in the town of Shetpe resulted in one death.

The tragic events in Zhanaozen came as a shock to everyone in Kazakhstan, casting a shadow over celebrations to mark the 20th anniversary of our independence. Over the past twenty years, our Government and citizens have taken a great pride in the stability of our nation. As the President has said: "events in the Mangistau region have become a serious trial for Kazakhstan. A challenge has been thrown down at us in the anniversary year."

The Government of Kazakhstan has been determined to fully investigate not only the immediate events that led to the outbreak of violence but also the response of the authorities and the longer term factors that contributed to the unrest. We have appreciated that a thorough and objective inquiry is key to understanding what really happened during these tragic events and to addressing the legitimate concerns of the people of Kazakhstan and the international community.

The authorities completed their investigation in March 2012 and criminal cases were brought against the individuals believed responsible for the riots in Zhanaozen and Shetpe, police for abuse of authority on the day of the riots, and the head of the detention centre in Zhanaozen for a death in custody under his supervision. Senior officials and officers in the regional Internal Affairs Department, local executive bodies and management of the local oil company were also prosecuted for their decisions on the day and abuse of authority that may have contributed to the unrest.

At every stage of the process, the Government has made a concerted effort to make the proceedings open and transparent, ensuring access to domestic and international observers and media, as well as diplomats from foreign missions to Kazakhstan. The court in Aktau, which hosted the trials of the rioters and police, laid on special facilities, including an anteroom, to allow full access to the court proceedings for all interested parties.

We also recognise that there are important lessons for the Government that could contribute to more effective crisis management, policy-making and governance in the future. This paper outlines:

- **The government's response to the violence** – The immediate actions and the measures taken to resolve the longer term issues in Zhanaozen
- **The investigation and judicial proceedings** brought against civilians and officials in relation to the unrest
- **Broader policy implications** - Areas we are exploring as we seek to understand and learn from these tragic events.

2. The Government's response

2.1 Immediate actions

In the immediate aftermath of the events of 16th December, the Government's priority was to re-establish order for the citizens of Zhanaozen. The Government introduced a temporary state of emergency in the region, and Deputy Prime Minister Umirzak Shukejev, now Head of the Samruk-Kazyna National Welfare Fund, was sent to head up a Special Commission to investigate and implement immediate measures to tackle the causes of the unrest. The Government allocated an emergency budget over \$25 million for the immediate restoration of the town and critical infrastructure. The Government also tasked the Prosecutor General with conducting a criminal investigation into the causes of the riot and the response of the local law enforcement bodies and the authorities.

The Special Commission was tasked with developing an action plan to resolve the socio-economic problems of the area, examine the concerns of the OzenMunaiGas employees and seek a rapid resolution of the dispute that led to the protests. The Commission was also responsible for investigating the way the dispute has been managed by local and national government bodies and by the parent company, KazMunaiGas, and the ultimate owner – the Samruk-Kazyna Fund. Its remit included the development of specific proposals to reform the company's management procedures. Following this investigation, the President dismissed a number of senior state officials and company officers who he believed bore responsibility for mismanaging the labour dispute prior to 16th December. Samruk-Kazyna was also instructed to pay compensation to the families of the dead and injured.

Despite the state of emergency, elections to the Majilis (lower chamber of the Parliament) and Maslikhats (local representative bodies) were held on 15 January 2012. The vote in Zhanaozen was monitored by election observers from the

OSCE/ODIHR, PACE, CIS and independent monitoring missions who noted no violations in the process. Over twenty Kazakh and foreign journalists also visited the town for the election. The state of emergency in Zhanaozen was lifted on 31 January 2012.

2.2 Solving the problems of Zhanaozen

After months of unemployment and protests, the first challenge for authorities was to revitalise the economy in Zhanaozen and to provide new jobs and salaries for the laid off oil workers. However, resolving the social and economic problems of Zhanaozen and the wider Mangistau region will require a coordinated and sustained effort from local, regional and national authorities.

In conjunction with the Special Commission headed by former DPM Shukeyev, Samruk-Kazyna, KazMunaiGas, and the Damu (Development) Fund adopted a comprehensive plan for the development of Zhanaozen through to 2020. This plan is aimed at stabilizing and improving the immediate socio-economic situation in the town, creating new industries and jobs, and developing the wider region's economy for the longer term. \$10 million have been allocated for the implementation of the Employment 2020 Program in the region in 2012, including for Zhanaozen alone.

Special employment centres have been opened in Zhanaozen and Aktau to assist applicants in finding new jobs in the local area and further afield. Each resident of Zhanaozen has been offered the opportunity to find alternative employment at enterprises created within the national framework of the Programme for Accelerated Industrial and Innovative Development (PAIID). The Government has also promised that all expenses related to relocation and housing will be reimbursed under the "Employment-2020" state program.

Two service companies were established within the OzenMunaiGas and Karazhanbasmunai oil companies, created over 2000 immediate jobs in the local area for laid off oil workers with their salaries unchanged. On the 1 March 2012, Umirzak Shukeyev, Head of the Samruk-Kazyna Fund, said that a total of 1,986 formerly dismissed oil workers (100 percent) were reemployed at newly established enterprises under the OzenMunaiGas and Karazhanbasmunai.

The Government has also opened a business development centre and introduced a number of practical financial measures to boost local enterprise. Special conditions were put in place for commercial lending to existing businesses and start-ups, which were offered loans from commercial banks at a 10 percent interest rate per annum starting from February 2012. Businesses who had previously taken loans with interest rates above 10 percent are able to apply for refinancing. Individuals

and businesses affected by the violence have been offered preferential lending directly from the National Wealth Fund, Samruk-Kazyna, at a 0.1 percent interest rate.

To improve the social situation in the town, the Government's plan includes the construction of 26 facilities between 2012-2015, creating 900 permanent jobs for teachers and doctors and developing a platform for Zhanaozen's longer term economic growth.

The Government continues to play close attention to the situation and senior officials regularly visit the region to meet with local authorities and residents and discuss the implementation of the recovery plan.

3. The investigation and prosecutions

The main task of the law enforcement bodies has been to obtain a complete and thorough understanding of all the circumstances which might have led to the tragic events in Zhanaozen. We know how important it is that those responsible for unlawful deaths, whether civilians or state officials, should be brought to justice. To this end, the Prosecutor General and relevant law enforcement bodies were tasked with conducting an extensive and objective investigation to identify those responsible for the outbreak of violence and to examine the use of force by local police.

A public commission, headed by Omirzak Ozganbayev, was established to oversee the work of the law enforcement bodies, to ensure the transparency of investigation, the fair treatment of detainees and liaise with the local community. The commission included respected elders, prominent citizens, lawyers and representatives of various political parties and trade unionists. The Commission set up offices in Zhanaozen, Shetpe and Aktau and gathered witness statements and provided assistance to families of the missing and those who had been detained.

The investigation, which last over three months, involved 1,149 interviews of potential witnesses and resulted in over 2000 witness statements. Investigators reviewed hours of footage and first hand reports and more than 200 forensic tests were conducted to establish a full account of events. The investigation was completed by 1 March 2012, and produced 93 volumes of evidence, while the indictments comprised 391 pages.

3.1 Oversight, transparency and international observers

Throughout the investigation and legal proceedings, the authorities have made every effort to make the process transparent and accessible to all interested parties, including the family and friends of the victims and defendants, domestic and international media, and observers from official organisations and NGOs at home and abroad.

Immediately after the riots, Penal Reform International and the public commission conducted a two day visit to detention facilities in Zhanaozen and Aktau (29-30 December 2011). Their report stated that “no instances of torture or ill-treatment were found” at the facilities they visited.

For the trials, the court provided special facilities, including an anteroom with a live video feed of the proceedings, to allow additional space for observers and interested parties. The court also provided briefings of the proceedings following each day’s events. Partners from the Office of the United Nations High Commissioner for Human Rights, and representatives from the EU, US and British Embassies attended proceedings, as well as numerous representatives from domestic and international media and civil society.

3.2 The Trials

As a result of the extensive investigation by the Prosecutor General and local authorities, criminal cases were brought against suspected rioters in Zhanaozen and Shetpe, five police officers and the head of temporary detention centre.

Trial of 37 suspected rioters in Zhanaozen

The first trial to be heard was that of the 37 suspected rioters in Zhanaozen, who were charged with offences relating to the organisation of and participation in violent mass disturbances, damage and destruction of property, robbery and theft, and acts of violence against legal officials (police).

In the course of the trial, the defendants alleged they had been tortured in the immediate aftermath of the riots and during the preliminary investigation. These allegations were taken into consideration, and the General Prosecutor’s Office carried out pre-investigation checks. No objective evidence was found to support the allegations, which had not been raised prior to the hearing. It should be noted that the detained persons were allowed to meet with representatives of NGOs that specialize in the prevention of torture and other forms of ill-treatment in the pre-trial period.

After a ten week hearing, Judge Aralbai Nagashibaev found 34 of the 37 defendants guilty with 13 receiving prison terms ranging from 3 to 7 years. A further 16 received suspended sentences of 2-3 years and five were pardoned.

Trial of 12 suspected rioters in Shetpe

12 individuals were charged following the unrest in the small town of Shetpe on 17 December. On the 21 May, the court in Aktau found 11 of the 12 defendants guilty of rioting, destruction of property and intentional damage of vehicles or means of transportation. Of the 11 found guilty, Judge Berdibek Myrzabekov sentenced four to prison sentences of 4-7 years, one was given a two-year suspended sentence and six were amnestied. The judge also ordered the guilty to pay a collective fine of KZT 16 million (\$107,000) as compensation for material damage.

Trial of five police officers for abuse of authority on the day of the Zhanaozen riots

Five police officers were charged with ‘abuse of authority with the use of weapons or special equipment’ as a result of their conduct on the day of the riots in Zhanaozen:

- Kabdygali Utegaliyev, Deputy Head of the Department of Internal Affairs (DIA) of the Mangistau Region
- Bekzhan Bagdabaev, Head of the Department for Combating Extremism within the DIA
- Erlan Bakytkaliuly, Deputy Head of the Department of Internal Affairs (SIA) of the city of Zhanaozen
- Rinat Zholdybaev, Detective Officer of the DIA of the Mangistau Region
- Nurlan Yessbergenov, Senior Investigator (SIA) of the city of Zhanaozen

On May 28, the court convicted the five officers and sentenced them to varying prison terms, accompanied by the confiscation of property and a ban on holding office in law enforcement agencies for five years after release. The heaviest sentence of seven years was given to Kabdygali Utegaliyev who had been in charge of the consolidated police unit which had confronted protesters and had given the order to open fire. Three defendants – Bekzhan Bagdabayev, Erlan Bakytkali and Rinat Zholdybaev - were sentenced to 6 years and Nurlan Yessbergenov was sentenced to 5 years.

Trial of Zhenisbek Temirlov, Director of temporary detention centre in Zhanaozen

Zhenisbek Temirov, the director of a temporary detention centre in Zhanaozen, was accused of the illegal detention of Bazarbai Kenzhebayev, and of failing to provide timely hospitalisation, which led to the death of Mr Kenzhebayev in custody. The hearing on Temirov's case began in Aktau on 25 April, with the trial lasting three weeks. On 17 May, Temirov was found guilty of abuse of authority and sentenced to five years in prison. In addition, Temirov's property was confiscated and he was forced to pay KZT 1m (\$6,700) in compensation to the victim's daughter.

Release of Natalia Sokolova

By decision of the Supreme Court of Kazakhstan on 6 March 2012, Natalia Sokolova, who acted for the striking oil workers and who was convicted last year of inciting social discord, had her sentence reduced and was immediately released from prison.

3. Broader policy implications

We fully appreciate that the events last year in the Mangistau region have highlighted a number of broader issues with important implications for policy-making and governance. In the aftermath of Zhanaozen, we pledged to look seriously at the areas that may have contributed to the wider context for the unrest, and to work to improve the mechanisms for identifying and managing potential crisis situations before they deteriorate. As a result, we have embarked on a series of initiatives in the following areas:

3.1 Single industry settlements and governance

Zhanaozen, like many others settlements in Kazakhstan, was dependent on a single industry for employment. The failure to diversify industry and so to provide a basis for the development of businesses across the spectrum meant that the economic and social structure of the town was highly vulnerable and dependant on the fortunes of one sector. As stated above, we have made significant efforts to resolve the local employment problems in Zhanaozen. However, the Government also appreciates that this is a wider issue that must be resolved, particularly in these difficult economic times.

In response, the Government has formulated a comprehensive development programme for single industry towns for 2012-2020, focusing on diversifying social and economic development, supporting small and medium enterprises, improving local self-government and increasing the participation of citizens in the decision making process. This was adopted on 22 May 2012, with a total of KZT 20 billion (\$134m) allocated to the programme in 2012.

In addition to the special development programme for single Industry towns, a total of KZT 38.2 billion will be provided in 2013, KZT 43.2 billion in 2014, and KZT 53.9 billion in 2015 to projects within single industry towns under existing development programmes. At present, a total of 114 projects worth KZT 1 trillion 249 billion (U.S. \$8.6 billion) are being implemented in 20 single-industry towns through the nationwide ‘Map of Industrialisation’ and the “Business Road Map – 2020” programmes.

3.2 Resolving employment disputes

We acknowledge that the failure of the authorities and company management to resolve the dispute with striking workers set the context for the outbreak of violence. The Government continues to explore mechanisms for addressing employment disputes at local and national level, and the channels available to employees to raise legitimate concerns. As an immediate step, the Government introduced amendments to the Labour Code which were passed by the Parliament on 6 January 2012. Taking into account the recommendations of the International Labour Organisation, these amendments strengthened and codified the rights of shift workers, the mechanisms available to employees for raising concerns with employers, and clarified the responsibilities of parties in any dispute. The Government has also recommended that companies operating in heavy industry should establish bodies to oversee and monitor worker safety and conditions.

3.3 Riot control techniques

It is clear from the subsequent investigation that the police were not adequately trained, equipped or prepared to manage a riot situation. As part of a broader initiative of police reform, the Government is exploring measures to improve the police’s ability to manage violent incidents and adequately train forces in non-lethal riot control methods.

3.4 Crisis management

Events in Zhanaozen required the Government to act quickly to restore stability and address the underlying problems in the Mangistau region. Over the past few months, we have been conducting a comprehensive evaluation of both our short and medium-term response so as to enable us to improve our crisis management capacity, to develop our ability to assess rapidly developing situations, and to formulate quick, effective and appropriate responses.



United States Mission to the OSCE

Response to Ambassador Natalia Zarudna, Head of the OSCE Center in Astana

As prepared for delivery by Ambassador Ian Kelly
to the Permanent Council, Vienna
June 21, 2012

Thank you, Mr. Chairman.

The United States welcomes Ambassador Zarudna in her first appearance before the Permanent Council as Head of the OSCE Center in Astana. Ambassador Zarudna, we thank you and your staff for the detailed report you have provided today. It reflects an extraordinary compendium of the cooperation between OSCE and Kazakhstan's government and civil society, as well as the active partnership OSCE fosters with the international community. The OSCE is clearly making a positive and lasting difference in Kazakhstan.

In the First Dimension, the United States supports and wishes to congratulate OSCE staff and the government of Kazakhstan on their active cooperation to address security and law enforcement challenges, including organized crime, terrorism, trafficking in human beings, drugs, and illegal weapons trafficking. We recognize the importance of all of these efforts and urge the Center to continue to engage with the international community as it works with the government of Kazakhstan to address these pressing challenges in a manner that is both effective and consistent with Kazakhstan's commitments to the fundamental freedoms of expression, association, assembly, and religion or belief to which all are entitled, including those with minority views or religious beliefs.

The Center's efforts to develop confidence and security building measures with the Ministry of Defense are noteworthy, as are Kazakhstan's efforts to implement the 2007 and 2011 Ministerial Decisions on enhancing engagement with Afghanistan. We warmly welcome Kazakhstan's decision to host the next ministerial in the Istanbul process, to contribute to the sustainment of the Afghan National Security Forces (ANSF), to provide training for Afghanistan officials and experts in Kazakhstani institutes of higher education and to invest in schools, hospitals, and roads in Afghanistan. The United States sees Kazakhstan as a trusted ally and strategic partner and welcomes Kazakhstan's important contributions to peace and stability in Afghanistan, in the region, and beyond.

In the Second Dimension, we agree with the Center's focus on good governance and combating corruption in coordination with both the government of Kazakhstan and civil society. We wholeheartedly support the Center's advocacy for transparency, accountability, and inclusiveness in the management of extractive industries' revenues, including efforts to assist Kazakhstan in moving forward on demonstrating compliance with the rules of the Extractive Industries Transparency Initiative (EITI). We also congratulate the Center and the government of Kazakhstan on their support to the four new Aarhus Centers in Kazakhstan.

Unfortunately, the last six months have not brought progress on many of the core Human Dimension issues and fundamental freedoms central to the Helsinki Final Act and recently affirmed in the Astana Declaration. Recalling Kazakhstan's accomplishments during its 2010 chairmanship, including hosting the Astana Summit, we urge Kazakhstan to reaffirm its commitment to advance media freedom, freedom of expression, freedom of peaceful assembly and association, and freedom of religion.

We recognize that Kazakhstan has faced unprecedented challenges over the past six months, beginning with the violent protests in western Kazakhstan in December last year. We appreciate the efforts of the Center, the government of Kazakhstan, and civil society to understand the full truth about both the underlying causes of the unrest and specific actions taken during these events, as well as all parties' willingness to share their findings with participating States. We are heartened by the transparency of the trials in Aktau, as well as media access. We welcome the government's attempts to bring to justice, not only private persons who broke the law by engaging in violent acts, but also police and other officials who abused or over-stepped their authority. We believe that many questions remain unanswered, however, and therefore urge continued full investigation into events, including allegations of torture or abuse of defendants.

We are also concerned by other events over the past six months. While each case is different, the cumulative trend formed by the arrests and incarcerations of persons such as Vladimir Kozlov, leader of the unregistered Alga party, Kanat Ibragimov, Bakhytzhan Toregozhina, Larissa Boyar, Kairat Erdybayev, Rakhim Auganbayev, Bulat Abilov, and Zharmakhan Tuyakbai raise troubling questions about the level of respect for freedom of expression and peaceful assembly in Kazakhstan. We continue to monitor Mr. Kozlov's prolonged detainment on ill-defined charges such as "inciting of social discord." We encourage the government of Kazakhstan to consider carefully the delicate balance between freedom of expression and security and to demonstrate its continued commitment to openness and transparency in judicial proceedings as this investigation moves forward.

The election this year of a multi-party parliament is a step in the process of developing democratic institutions and a tolerant, pluralistic society. At the same time, we urge the government of Kazakhstan to give full and serious consideration to ODIHR's recommendations for further improving the electoral system in Kazakhstan in order to address those areas in which the January elections fell short of international standards.

As your report indicates, "the harassment of and attacks on journalists, the fining of media outlets, the blocking of websites, legislation that is not fully compliant with international freedom of expression and the free flow of information standards, and libel and defamation cases that impose disproportionately large penalties for the plaintiff" are serious issues in Kazakhstan. In this regard, we remain deeply concerned by the brutal attack in April on journalist Lukpan Akhmedyarov. We commend Kazakhstan's efforts to pursue this case aggressively and urge Kazakhstan to implement additional, systematic steps to ensure the safety of journalists.

We are concerned that some developments over the past six months related to the implementation of Kazakhstan's amended law on religion appear to have weakened Kazakhstan's long history of religious tolerance. We are aware of instances in which ministers were jailed or fined for distributing religious literature, of some religious groups being stopped from spreading their faith, and of religious communities that use private homes

for religious worship being subject to additional pressure. We also remain concerned about the impact on religious freedom, particularly for smaller religious groups, of the re-registration process and criteria mandated by the amended law on religion.

Ambassador Zarudna, we are grateful for your efforts, and those of your staff, to assist the government of Kazakhstan in strengthening the institutions it has created to protect human rights. We also want to commend the government of Kazakhstan for its exemplary efforts to contribute to regional and world security through active participation in efforts ranging from bringing peace to Afghanistan to stemming the spread of weapons of mass destruction. At the same time, we urge the government to take full advantage of broad OSCE expertise in the areas of human rights and democracy and to work closely with the Center in the coming year as the government continues to address difficult issues related to extremism and national security. We wish Ambassador Zarudna every success as you enter your second year in Astana and pledge our support in achieving the important goals you have set out.

Thank you, Mr. Chairman.