

To: Nursultan Nazarbaev,
President of the Republic of Kazakhstan

OPEN APPEAL

Dear Mr. Nazarbaev,

We appeal to you as the guarantor of the constitutional rights of citizens, upon instruction of the participants in the Round Table 'Draft Law on Non-Governmental Organisations: Pros and Cons' organized by the OSCE Almaty Centre, OSCE's Office for Democratic Institutions and Human Rights, and the Ministry of Culture, Information and Public Accord of the Republic of Kazakhstan and held on 10 June in Almaty.

The round table participants are in support of the serious steps aimed at the development of the civil society institutes in the Republic of Kazakhstan, particularly the development and adoption of the Concept for State Support of Non-Governmental Organisations of the Republic of Kazakhstan dated 23 January 2003 and the Program for State Support of Non-Governmental Organisations of the Republic of Kazakhstan for 2003-2005 dated 17 March 2003.

In accordance with these documents and in furtherance of your special instruction, the Government has started to develop two draft laws:
On Non-Governmental Organisations and On State Social Order.

Nobody can deny the fact that legislative regulation and, mainly, law-enforcement practice in this sphere need to be improved in order to harmonise them with the international standards pertaining to citizens' freedom of association set out in the Constitution of the Republic of Kazakhstan. It is particularly pressing in the light of the strong intent of the Republic of Kazakhstan to ratify in the nearest future the UN International Human Rights Covenants, as such ratification will require bringing internal legislation in compliance with the international rules and standards. It is how non-governmental organisations understand your instruction to the Government.

Referring to your instruction, the Government has, however, developed and with regrettable persistence keeps pushing the draft law on NGOs aimed not at creating favourable environment for their development, including direct governmental support, but, on the contrary, creating conditions for arbitrary restriction of the citizen's freedom of association right and aimed at intensifying governmental regulation and controls over civil society organisations.

Arbitrarily using internationally accepted social-and-political term "NGOs" (non-governmental organisations), which makes no sense at all legally, the draft law suggests to single out from the variety of non-governmental institutes the so-called "useful" for the community non-governmental organisations. Thus, organizations and institutes not included into the category of "useful" organisations will automatically be considered as "useless", while governmental bureaucrats will be bestowed with the right to determine the degree of their "usefulness".

The requirement of mandatory open publication of reports on activities of the non-governmental organizations in the mass media is in contradiction to the market economy laws, and discriminates these organizations as compared with commercial and state organisations, which are free of any such requirements.

Of particular concern is the fact that the draft law provides for discriminatory rules in respect of international and foreign non-governmental organisations, as compared with local organisations (more stringent requirements to reporting and stricter liability, to the point of liquidation).

The Government pays no attention to sharp criticism of the draft law by non-governmental organisations and international experts.

Persistent pushing of the discriminatory law on non-governmental organisations (NGOs), which has been repudiated by non-governmental organizations themselves, and reasonably criticized by international experts, for considerable deviations from the generally accepted standards pertaining to citizens' rights of association, raises difficult-to-remove doubts as to sincerity of the Kazakhstan's leaders who declare their commitment to the democratic development of the country.

We absolutely agree that improving legal relations between state and civil society organizations, or, as they are called worldwide, non-governmental (public) organizations (NGOs), is a critical and urgent need. At the same time, we believe that such improving should be fostered through agreed and systematic improvement of the current legislation aimed at creating conditions for full exercise of citizens' freedom of association rights, and not through hasty adoption of ill-advised additional laws.

Among main directions of such work, we deem it necessary to:

1. Adopt a "framework" law On Citizens' Right of Association.
2. Make amendments to the Constitution removing ban on state financing of public associations.
3. Make amendments to the Law of the Republic of Kazakhstan On Non-Governmental Organisations in order to secure legal status of public organisations of other organizational forms than a public association and a public foundation.
4. Make amendments to the Law on State Purchase Orders, in order to ensure for all NGOs equal rights with incapacitated persons' organizations and take into account the specifics of social state purchases with wide participation of NGOs.
5. Adopt a law ensuring state grants to NGOs on a tender basis.
6. To stipulate legislatively the procedure for involvement of the public in the governmental decision-making pertaining to the society and public organisations (participation of the public and NGOs in the development and

expert examination of legislative acts, and formation of coordination councils at local and regional levels in order to take account of the civil society opinions).

7. Decrease the registration fee and shorten the NGOs registration periods.
8. Improve and organize tax privileges system for non-governmental organisations, including through introduction of a tax credit for individuals on donations to non-governmental organisations and to organisations operating in the social sphere.
9. Legalise the status of non-governmental sector volunteers that virtually are outlawed because of the minimum payment for work requirement.

You are, Mr. President, hereby requested to clarify your instruction to the Government concerning putting in order the legislative framework in the sphere of legal relationships between the state and non-governmental organisations subject to the above proposals.

We appreciate your attention to this problem,

For the round table participants representing public and international organizations:

Marat Aitmagambetov	- Civil Society Support Centres Network
Eugene Zhovtis	- Kazakhstani International Bureau for Human Rights and Rule of Law
Yuri Zaitsev	- Feminist League
Gulsum Kakimzhanova	- Iris NGO
Irina Unzhakova	- Status NGO
Ninel Fokina	- Almaty Helsinki Committee

Almaty

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