

**Observation of international and constitutional norms at administration of justice in
Kazakhstan: Investigation and trial on the case of murder of state and public figure
Altynbek Sarsenbaiuly.**

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HDIM.NGO/462/06
11 October 2006
ORIGINAL: English

OSCE Human Dimension Implementation Meeting
Warsaw, October 09, 2006

On November 13, 2005, on the eve of presidential elections in Kazakhstan, one of the opposition leaders Zamanbek Nurkadilov was shot to death in his house with two bullets in chest and one in head. Shortly before that, he declared the intention to disclose "mortally dangerous discrediting documents" concerning president Nazarbayev. The society evaluated this death as political killing, but the authorities considered only one version - a suicide. Is it possible that a man could shoot himself three times, then stand up, lie down, cover himself with a blanket and put the gun near his legs. That's how he was found. The bodies of interior illegally denied the widow, famous singer Makpal Zhunusova, the right to be considered as victim.

February 11, 2006, will remain the worst day not only for our family, but for the history of Kazakhstan. The beginning of 21 century, the bloody epoch of Nazarbayev's rule, was marked by a national tragedy. Many honest people ask the main question: "Who's the real killer?" I know the answer – just like other experienced citizens – I know that my brother was killed by the autocratic presidential regime. He was killed because he was the strongest and most dangerous rival.

Altynbek Sarsenbaiuly worked in the government as Minister of Information, Secretary of the Security Council, Ambassador to Russia. In 2004, he resigned and was elected co-chairman of the "True Ak Zhol" Democratic Party, and Member of Presidium of the Movement "For a Just Kazakhstan", which was formed by the united democratic forces on March 22, 2005.

Many his words about the regime that exists in Kazakhstan were prophetic. "The president's entourage, and perhaps president himself, believe that it is possible to retain power by strengthening autocracy and totalitarian methods of crackdown on civil rights and freedoms. This is a very rough, unforgivable mistake! It is not a way out of the political crisis created by the authorities. It aggravates the situation, provoking confrontation. It's a deadlock". Another citation: "If political trials and persecution of politicians continue, the authorities and president Nazarbayev, who personally represent the regime, will totally lose the moral right to govern the country. In this case, the president will be viewed by the society as a man, who is very scared of his political opponents. This will arouse disappointment of the society and split of political forces, thus, undermining trust to the president".

This prognosis, made by Altynbek Sarsenbaiuly in back October 2004, was fully proven. The murder was undoubtedly political. He, his driver vasily Zhuravlev and assistant Baurzhan Baibosyn were abducted by the officers of the elite squad of the National Security Committee. Their hand were tied, and they were shot on the outskirts of Almaty.

The state structure, which is supposed to prevent terrorism and extremism, became an instrument of the regime's fight against the opponents, dissenters and independent journalists. After the too-fast and too-shallow investigation, the Minister of Interior stated that a mild-mannered Senate official had ordered the murder because of "personal enmity". Among the accused there were six officers of the National Security Committee, three officers of the interior, and Chief of the Senate Administration Yerzhan Utembayev.

The sentence to Utembayev, alleged mastermind of the assassination, was passed by the president long before the trial. Speaking in the Senate, he said: "Utembayev has told everything. He confessed and wrote a letter to me, saying that he did not have any accomplices and contracted murder because he felt hurt for many years. All details are already known". Certainly, in a totalitarian state with a democratic facade like Kazakhstan, none of the judges would argue opinion of the president, to whom "the picture of crime is clear". Indeed.

But we, relatives and colleagues of Altynbek Sarsenbaiuly considered the trial to be an opportunity of getting closer to the truth. It was also important to demonstrate once again to the Kazakhstani and international community the biasness of the investigation, groundlessness of the indictment, and the absolute dependence of the Judicial. We had a small hope that the self-preservation instinct would make

the defendants name the real organizers and executors of this monstrous crime. But, unfortunately, the court did not leave the framework, made up by Astana.

The court violated constitutional rights of the parents of Altynbek Sarsenbailuly, his brothers and sisters, their representatives, and did not allow them to take part in the trial. The colleagues, co-chairmen of the "True Ak Zhol" party were not granted the right to represent the victim side.

The court baselessly denied us the right to fully examine the case materials. The court refused to show the video of interrogation of Utembayev, refused to ask the questions to the defendants after questioning of the witnesses, experts and examination of the written testimonies. As a result, the victim side and its representatives left the trial. Moreover, the prosecutors and court used far-fetched pretexts to forbid examination of the report made by experts of the U.S. Federal Bureau of Investigation after polygraph interrogation of two defendants.

As soon as there were military officers among the accused, the trial should have been held in Almaty, in the Martial Court. In violation of the Criminal Code and Constitution of the republic of Kazakhstan, the case was sent to the Almaty Regional Court in small provincial town of Taldy-Kurgan. The authorities were afraid that the people's protest reaction to unfair trial would burst onto the streets of Almaty, the biggest city of the country. Because involvement of the authorities in this bloody crime was too obvious. The only definition to it is terrorism.

Terrorism is a form of political struggle with the use of illegal and immoral violence. It is a form of political extremism. According to Article 233.4 of the Criminal Code of Kazakhstan, the murder of Mr. Sarsenbailuly should be qualified as a murder with the purpose to disturb public safety, terrorize the population, and as murder of state and public figure with same purpose and also in order to cease his political activity, or as revenge to such his activity.

The consequences of finding the bodies of prominent opposition politician and two his aides with their hands tied, and their bodies not hidden were supposed to undermine political situation in the country, intimidate the people. The real masterminds of the crime have partially reached their goal. But most people felt indignant and considered the assassination as an act of terrorism. The organizers escaped punishment. They encroached on internal security of the country, on safety of citizens, on the basics of social order, political system, civil society. The aim was to disorganize the activity of political party and change its activity.

The UN Resolution dated December 9, 1994, says: "Crimes aimed at creation of an atmosphere of terror among the wide public, group of people or concrete individuals with political purposes, cannot be justified in political, ideological, racial, religious or any other circumstances". Consolidation of personal power of president Nazarbayev, accompanied by harsher political crackdown, made possible political murders. It became a threat to the safety of citizens of Kazakhstan. There are all signs of unjustifiable terror.

Altynbek Sarsenbailuly, leader of democratic opposition of Kazakhstan, was considered by many local and foreign analysts as the most prospective presidential candidate after Nazarbayev. He was killed because he dared to tell the truth about crimes of the regime. He was killed for his choice of justice, law and order.

"Why Nazarbayev cannot hold free elections at least, once? Why he again walks this dirty sticky way? Why Nazarbayev cannot win in fair elections? Why members of 1 family have 4 political parties? "Otan" party is headed by daddy Nazarbayev. "Asar" party is headed by his daughter Dariga. "Enlightened islamist", vice-president of National Company Kazakhstan Railways and nephew of Nazarbayev – Kairat Satypaldy makes his ecologic party. People say that the currently shaping "Atameken" party of entrepreneurs is a project of another Nazarbayev's son-in-law. Family in Kazakhstan is not just a social cell. It's a huge political factor, a factor of social regress". These are the words of Altynbek Sarsenbailuly shortly before his death ...

Ladies and gentlemen,

I believe and I hope that the OSCE, realizing its responsibility for peace and stability in Europe, will give an adequate evaluation to the criminal political acts in Kazakhstan and will not let terrorism spread in the region. Taking this chance, I appeal to the international community through the responsible politicians and journalists that are here today, urging them to demand stoppage of persecution of political opponents from the Kazakh authorities.

Thank you.