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To disappointment of the progressive international community and the Kazakhstani citizens, last years before the Kazakh chairmanship in the OSCE, were marked by violations of the most important principles of a democratic state. The human and civil rights and freedoms, declared in the Kazakhstan's Constitution didn't become the main aim of the political, social and economic reforms. On the contrary, the fundamental values of a democratic society are sacrificed to the corrupt regime, arbitrariness and total lawlessness of the authorities.

A number of the Kazakhstani lawyers notes that "the legal power and direct action of the Kazakhstan's Constitution doesn't mean automatic realization of its human rights and freedoms provisions. Our criminal and procedural legislation also looks quite progressive on paper, as it was rewritten from the best modern models.

But it has to be "admitted that the lack of independent Judiciary in Kazakhstan is the main thing that separates us from the modern civilization. They say that market economy has been already built in Kazakhstan. But no civilized market may exist if there is no really independent court system, where policemen, prosecutors and judges can't guarantee stability of property rights and protection of civil rights, where they serve as active participants of the officials' business and are used for squaring of political and other accounts with the rivals. In exactly the same way neither fair elections, nor independent mass media, nor law-based state in general can exist if the independent Judiciary is lacking" (*Kazakhstan 2001-2002. Political crisis. Facts and documents. "KANIA", 2002*)

It is vividly reflected in a number of trials, which had a great social and political resonance during the last years. There are the cases, which I had an occasion to observe or to participate in as an attorney for my colleagues from the democratic opposition.

One of the biggest examples of incompleteness, partiality and unlawfulness of investigation in court is the criminal case # 06196203100062 on a fact of murder of outstanding state and public figure, opposition leader Altynbek Sarsenbay-uly and his colleagues Bauyrzhan Baibosyn and Vasily Zhuravlyov. In December 2006 I took part in an appellate hearing on this case by the Panel of Judges on criminal cases of the Supreme Court of the Republic of Kazakhstan as a representative of the victim – Zhanat Baibosyn (a sister of Bauyrzhan Baibosyn).

The public activity of Altynbek Sarsenbay-uly and his criticism of the authorities don't leave doubts in political motivation of this crime. But the President - during his speech in Senate on March 2, 2006 - supported an "official version", which predetermined the course of the investigation and law proceeding in general. "As a result, the investigating group didn't go beyond the frame of this version. The investigation was held extremely unprofessionally, with many violations of the

procedural requirements and with falsifications. The investigators and court – due to the partiality, biasness and lack of independence – violated the law and failed to interrogate a number of higher officials and the President’s family members, who were political opponents of A. Sarsenbay-uly and whom the public opinion of the country linked with this terrible crime”. (*The national tragedy February 11, 2006. The chronicles of Kazakh and foreign mass media, 2007*).

It was one of the rare trials, when both sides – the prosecution and the victims – were united by denying the crime’s motive, based on allegedly “hostile relations” between former chief of the Senate Administration E. Utembayev and opposition leader A. Sarsenbay-uly.

As long as the crime’s motive was not confirmed, the court used a “penitential letter” of Utembayev to the President as a pretext for passing of an erroneous sentence. In this letter Utembayev took the blame upon himself, but the brutal murder of the Nazarbayev’s political opponent, which took place 4 years ago, hasn’t been disclosed yet. The questions, which were neglected by the court, haven’t found answers so far. Calls of the democratic forces of Kazakhstan to review the case were ignored by the country’s authorities.

There are much more examples.

It is sorrowful that the court system’s has turned into an instrument of struggling with dissent and undisguised persecution of the regime’s critics in Kazakhstan.