

AMNESTY INTERNATIONAL

Public Statement

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Prosecution of human rights defender exposes systemic failure to ensure fair trials in Kazakhstan

On 3 September 2009 a district court in Kazakhstan sentenced Evgeni Zhovtis, a prominent human rights defender, to four years' imprisonment following his conviction for causing the death of a pedestrian in a tragic traffic accident. He was detained in the courtroom after the verdict was pronounced.

Amnesty International is concerned, but not surprised, about reports that indicate that the criminal proceedings against Evgeni Zhovtis to date have not been consistent with national law and international fair trial standards. Among other things the organization is concerned about the failure – acknowledged by the court - of the investigating officer to inform Evgeni Zhovtis formally and promptly that his status had been changed from that of a witness to that of a suspect as required by the Criminal Procedural Code of Kazakhstan. This failure deprived him of a number of his rights during stages of the investigation, such as his right to remain silent and his right to have access to reports of forensic experts. Amnesty International is also concerned about reports raising questions as to whether the criminal proceedings respected the principle of equality of arms between the prosecution and defence and the right to present a defence, such as the rejection by the trial judge of the request to call expert witnesses on behalf of Evgeni Zhovtis. Such violations cast doubt over the fairness of the trial proceedings and his conviction.

The organization hopes that if the trial verdict is appealed, the appeal process will address the fair trial concerns raised by the defence. Any appeals process must be conducted by independent and impartial courts and respect international fair trial guarantees.

Amnesty International considers that the concerns raised about the handling of the criminal case against Evgeni Zhovtis are exemplary of similar concerns in other cases that Amnesty International has been documenting in Kazakhstan over the years about the failures of the criminal justice system. Evgeni Zhovtis himself, as director of the Kazakhstan International Bureau on Human Rights and the Rule of Law, an independent human rights organization, has also been raising such concerns tirelessly both domestically and with the international community for many years.

Amnesty International finds that the fair trial concerns in the criminal case against Evgeni Zhovtis are symptomatic of a profound and systemic failure of responsible officials in Kazakhstan to guarantee that the right of all persons charged with a criminal offence to a fair trial is respected and protected, in line with the state's obligation under the International Covenant on Civil and Political Rights. This failure continues to undermine the respect for the rule of law, human rights and the right of victims to true justice. The government of Kazakhstan must urgently undertake further measures to ensure that its criminal justice system is designed and operates in a manner that is consistent with its international human rights treaty obligations and its commitments under the Organization for Co-operation and Security in Europe, of which Kazakhstan will take over the chairmanship in 2010.

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