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International Centre for Trade Union Rights
Centro Internacional para los Derechos Sindicales
Centre International pour les Droits Syndicaux

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ICTUR was founded to
defend and extend trade union rights and
to raise awareness of these rights and their violations
around the world

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CC:
Abylkasymova Madina Yerassylovna, Minister of Labor and Social
Protection of Population of the Republic of Kazakhstan
Clément Nyaletsossi Voule, United Nations Special Rapporteur on the rights
to freedom of peaceful assembly and of association
Human Rights Watch
Industrial

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Dear President,

The International Centre for Trade Union Rights is gravely concerned about the protection of trade union rights in Kazakhstan following several serious incidents, involving leaders of the Fuel and Energy Workers' Union (FEWU). FEWU was formerly affiliated to the trade union centre, the Confederation of Independent Trade Unions (KNPRK), which was closed by the authorities in January 2017.

ICTUR is particularly concerned about the following incidents:

- On the 10 November 2018 in Shakhtinsk, Dmitry Senyavskii – leader of the FEWU Karaganda Region local branch – was violently attacked by two unidentified assailants. Senyavskii was subsequently hospitalised with serious injuries, including a broken arm and concussion. As a result of the attack, he was unable to travel to Astana for a meeting with representatives of the International Trade Union Confederation (ITUC) and the Arthur Svensson Foundation, which promotes trade union work. Despite the fact that Senyavskii and his family have faced a campaign of harassment over past months, including phone calls and an attack on his home, it is understood that Kazakh authorities have deemed the assault as a case of 'hooliganism'.
- On 25 September 2018, a criminal case was initiated against Erlan Baltabai, leader of the FEWU, on the basis of a complaint by a union

member accusing Baltabai of stealing around US\$28,000 in trade union membership dues. Baltabai has insisted that the funds are in his supervision as chairman of the union, and can be accounted for. It is understood that the authorities have repeatedly summoned Baltabai for questioning, searched his home and office, seized trade union documents, effectively paralysing the union from carrying out any formal activities. The investigation against him is ongoing.

ICTUR notes that, following the government's closure of the KNPRK, the Kazakh authorities have repeatedly targeted trade union leaders. While the release on parole earlier this year of two trade unionists - Nurbek Kushakbaev and Amin Eleusinov - is a welcome development, their convictions have not been overturned. These relate to Kushakbaev and Eleusinov's participation in a peaceful protest against the closure of the KNPRK. Furthermore, the appeal of Larisa Kharkova – KNPRK chairperson – against her criminal conviction was rejected last year and her sentence upheld; namely, four years of restricted movement, a five-year ban on holding office in any NGO or public organisation and 100 hours of compulsory labour. ICTUR further understands that the government pledged in May this year to amend the 2014 Trade Union Law, but has yet to do so, and that the KNPRK's attempts to re-register have been rejected three times in 2018.

The ILO Committee of Experts on the Application of Conventions and Recommendations has expressly urged 'the Government to take all necessary measures to ensure that the KNPRK and its affiliates are able to fully exercise their trade union rights and are given the autonomy and independence needed to fulfil their mandate and to represent their constituents' (*Report of the Committee of Experts on the Application of Conventions and Recommendations*, ILC.107/III(A). International Labour Organisation, 2018). ICTUR calls again on the government to comply with the ILO's repeated requests for amendments to the 2014 Trade Union Law to bring it into compliance with ILO Convention No. 87 on Freedom of Association, which Kazakhstan has ratified, and to make relevant amendments to the Criminal Code, to ensure that legitimate trade union activities are not subject to criminal sanction.

ICTUR also wishes to remind the government that the ILO's Committee on Freedom of Association has called for the institution of independent judicial inquiries to investigate incidents of violence against trade unionists, 'in order to shed full light, at the earliest date, on the facts and the circumstances in which such actions occurred and in this way, to the extent possible, determine where responsibilities lie, punish the guilty parties and prevent the repetition of similar events'. (*Freedom of Association: Compilation of decisions of the Committee on Freedom of Association*, International Labour Office, 6th Edition, 2018, para. 81-89, 94). The Committee has urged governments to ensure that Public Prosecutors systematically investigate and identify 'possible anti-union motives behind the offences under investigation' (*Freedom of Association*, para. 107). Failure to protect against such acts or hold guilty parties to account creates a culture of impunity, 'which can only reinforce a climate of fear and uncertainty highly detrimental to the exercise of trade union rights' (*Freedom of Association*, paras. 90, 96-99, 102, 106).

ICTUR calls on the authorities to undertake an immediate investigation into the attack on Dmitry Senyavskii, to cease the judicial harassment of trade union leaders in retaliation for their legitimate trade union activities,

and to further adopt all measures necessary to ensure the fundamental freedoms of workers to join and form unions and to take action in defence of their interests. ICTUR will report these incidents in the journal *International Union Rights*, which was established in 1993, and which enjoys a readership in more than 100 countries.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'D. Blackburn', followed by a long horizontal line extending to the right.

Daniel Blackburn, Director