

FROM:
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TO:
Mr Enzo Quattrocioche,
Secretary General,
EBRD
One Exchange Square
London EC2A 2JN
United Kingdom

Bulgaria:
Centre for Environmental
Information and Education (CEIE)
For the Earth!

Czech Republic:
Centrum pro dopravu a energetiku
Hnutí Duha

Estonia:
Estonian Green Movement-FoE

Georgia:
Green Alternative

Hungary:
Nature Protection Club of Eotvos
Lorand University (ETK)
National Society of
Conservationists-FoE (NSC)

Lithuania:
Atgaja

Macedonia:
Eko-vest

Poland:
Polish Green Network (PGN)
Institute of Environmental
Economics (IEE)

Russia:
Sakhaliin Environment Watch

Slovakia:
Friends of the Earth - Center for
Environmental Public Advocacy
(FoE-CEPA)

Ukraine:
National Ecological Centre of
Ukraine (NECU)

CEE Bankwatch Network's
mission is to prevent
environmentally and socially
harmful impacts of international
development finance, and to
promote alternative solutions and
public participation.

22 December 2009

Dear Mr Quattrocioche,

We would like to bring to your attention the decision by the Supreme Court of the Kyrgyz Republic of 15 December 2009, and ask the EBRD to examine the case, which relates to the EBRD-financed Kumtor gold mine.

The Court has upheld a 2-year conditional sentence for abuse of an official position for Ms Baktygul Imankozhoeva, a doctor from Barskoon village near the EBRD-financed Kumtor goldmine in the Issyk-Kul region. The charges appear to be motivated by Ms Imankozhoeva's human rights advocacy for the victims of a cyanide spill at the Kumtor mine in 1998. The spill killed several people and injured hundreds, although the exact number of deaths was disputed. Ms Baktygul Imankozhoeva provided first aid to the victims of the environmental disaster and has championed the rights of those affected. Apparently as a result she has been subject to numerous charges and court cases, outlined in the chronology in the annex to this letter.

In the most recent case, on June 24, 2007 the regional law enforcement agencies charged Ms Imankozhoeva under Articles 164 (theft), 166 (fraud), and 304 (abuse of official position) of the Criminal Code. She was acquitted of Articles 164 and 166 by Jeti-Oguz District and Issyk-Kul Oblast courts, however the courts imposed a conditional sentence under Article 304.

Ms Imankozhoeva appealed to the Supreme Court of the Kyrgyz Republic, and a hearing was scheduled for December 15, 2009. However, during the night of 14-15 December she was taken to hospital with a suspected heart attack. On the morning of 15 December, Ms Erkingul Imankozhoeva (Baktygul's sister), informed the judge of the Supreme Court Mr Maatov and requested the postponement of the case. Mr Maatov promised to take this into consideration. The medical certificate from the hospital was brought in the afternoon.

Despite being informed, the Supreme Court considered the matter that day, without the presence of Ms Imankozhoeva or her lawyer. The Court upheld the decision of the district and regional courts, i.e. a conditional sentence under Article 304 of the Criminal Code. This appears to be illegal, because Ms Imankozhoeva was not able to uphold her constitutional right to legal defence.

We therefore support Kyrgyz activists' calls for:

- The Collegium of the Supreme Court to restore of the constitutional right of Ms. Baktygul Imankozhoevoy to be defended in the Supreme Court of the Kyrgyz Republic and to consider a new hearing of the case
- The National Council of Justice of the Kyrgyz Republic, and the Chairman of the Board of Judges to assess the actions of members of the Judicial Collegium of the Supreme Court, not only as a violation of constitutional norms and the Criminal Procedure Code, but also as actions that do not conform to ethical

conduct of judges, and to make a case to the President of the Kyrgyz Republic for their dismissal as judges of the Supreme Court

- The Attorney-General of the Kyrgyz Republic and the Minister of Internal Affairs to undertake an inquiry and take action against officials who have violated the Code of Criminal Procedures during the investigation of the case.
- All branches of government, civil society, human rights organizations and other citizens to protect the right of Ms Imankozhoeva to defence in court according to the rule of law.

We ask you to raise the case with the Kyrgyz authorities, and to inform us of any action you have been able to take.

Yours sincerely,



Ms Pippa Gallop

Chronicle of legal action against Ms Baktygul Imankozhoeva

1998 - Ms Imankozhoeva provided medical care to people poisoned by the cyanide spill at the Kumtor gold mine. In connection to this, Imankozhoeva, as a witness of the victims' suffering, began openly criticize the Kumtor management, officials and authorities for their negligence and passivity in preventing the incident and their failure to provide effective medical and social assistance to the victims.

1999 - Demonstrations of Barskoon residents, mostly women, with a demand to Kumtor and the government authorities for compensation for moral and material damages. The authorities responded by detaining the protestors and taking blood samples against their will. Ms Imankozhoeva came out openly against the authorities' actions.

1999 – At the initiative of Ms Imankozhoeva and the residents of Barskoon village Kumtor Diagnostic Centre was built in the village centre and handed over to the local authorities.

2000 - 2002 – Due to the local authorities' negligence the equipment of the Diagnostic Centre was looted and the centre stopped working. Ms Imankozhoeva repeatedly appealed to the public prosecutors, police, and Ministry of Health to bring to justice the perpetrators of the theft.

2002 - Ms Imankozhoeva was dismissed from her post as doctor in a criminal case relating to the sale of a newborn baby sale. The Supreme Court acquitted her and reinstated her in her position.

2004 – A criminal case on hooliganism was fabricated against Ms Imankozhoeva and she was fined. This appears to have been motivated by her persistent criticism of the local authorities.

2005-2006 – Due to the persistent initiative of Ms Imankozhoeva, Kumtor restored the Diagnostic Centre and she was appointed as Director of the family medicine centre.

June 2007 - Jetti-Oguz district department of legal internal affairs opened another criminal case under three articles of the Criminal Code (164 - theft, 166 – fraud and 304 - abuse of official position) against Ms. Imankozhoeva.

June 2007 - May 2008 - During the investigation, the chief of police conducted warrantless searches, pressured and intimidated citizens to give incriminating testimonies against Ms Imankozhoeva, and organized a statement by the leader of the construction and repair organization Ms Gordeeva on the theft of construction materials.

The police also organized statements by Ms Sasykova and Ms Konokbaeva stating that part of their salary

had been illegally withheld for two months by Ms Imankozhoeva, even though the documents confirming the receipt of their wages had their signatures on, and numerous testimonies were given by other employees in Ms Imankozhoeva's favour. The written statement claiming that the salaries had not been paid was submitted to the law enforcement agency two years after the receipt of the salary.

May 2008 - A request was made to the investigator and prosecutor to dismiss the criminal case against Ms Imankozhoeva, but was denied.

June 2008 - September 2009 - The cases were heard in Jeti-Oguz district and Issyk-Kul regional court. The local courts found Ms Imankozhoeva not guilty on two articles of the Criminal Code (on fraud and theft) but she was conditionally sentenced for abuse of official position (for the illegal withholding of wages of Sasykova and Konokbaeva).

December 15, 2009 - a Supreme Court decision upheld the conditional sentence imposed by the lower courts, in spite of the absence of both Ms Imankozhoeva and her lawyer.