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Kazakhstan: Feminist Group Denied Registration

Court Upholds Arbitrary, Discriminatory Decision

“This appeals court ruling allows an arbitrary and discriminatory decision by the Ministry of Justice to stand,” said Laura Mills, Europe and Central Asia researcher at Human Rights Watch.

“Kazakhstan authorities should stop preventing groups from operating lawfully just because they are critical of the government or work on controversial issues.”

Kazakh authorities have denied registration to certain organizations that are critical of or work on issues deemed controversial by the authorities, for example an organization that campaigns against mass surveillance and detention of ethnic Kazakhs in Xinjiang province in China. They have also repeatedly denied registration to independent trade unions.

Feminita, which has been operating informally since 2015, focuses on promoting the rights of marginalized women in Kazakhstan, from lesbian, bisexual, and queer women to those with disabilities, and sex workers. In December 2017, it first applied for official registration as an NGO, but registration was denied three times over the course of the year.

Each time, the Almaty department of the Justice Ministry said that the organization did not comply with the Law on Noncommercial Organizations. But even though it is required to do so by law, it did not explain what the shortcomings were or what steps Feminita needed to take to comply. Feminita told Human Rights Watch that it does comply with the law.

Feminita filed a case against the Ministry of Justice. In May 2019, a judge ruled that Feminita was not eligible to register under the Law on Noncommercial Organizations or the Law on Charities, holding that its stated goals did not “provide for the strengthening of existing spiritual-moral values ... [and] the prestige and role of family in society.” Feminita had not sought to register under the charities law because it doesn’t provide any charitable services.

The appeals court ruled to uphold the lower court’s decision, but provided no further explanation supporting the decision to deny Feminita registration. Nor did it explain how the refusal to register the group could be compatible with the right to freedom of association.

“It feels like they are constantly searching for grounds to stop our work,” Zhanar Sekerbaeva, co-founder of Feminita, told Human Rights Watch. “There are and have been for a long time lesbian, bisexual, and transgender women in Kazakhstan, and with this [denial] it is as if they are excluding an entire group from society.”

In 2015, Kazakhstan changed its laws essentially to allow the government to regulate funding for nongovernmental groups through a government-appointed body. In addition, individuals can face hefty fines and administrative charges if they direct or participate in an unregistered organization.

Kazakhstan is a party to the International Covenant on Civil and Political Rights (ICCPR), which requires it to respect the right to freedom of association. The Human Rights Committee, which oversees compliance with the ICCPR, has repeatedly said that “the existence and operation of associations, including those which peacefully promote ideas not necessarily favorably received by the government or the majority of the population, is a cornerstone of a democratic society.”

The committee has held that an arbitrary refusal to register an organization violates the right to freedom of association, and that preventing an organization from operating is only justified if it is “necessary to avert a real and not only hypothetical threat to national security or democratic order, that less intrusive measures would be insufficient to achieve the same purpose, and that the restriction is proportionate to the interest to be protected.”

Feminista members have experienced discriminatory treatment by the authorities before. In 2019, the authorities denied Feminista permission to organize a march for International Women’s Day multiple times. In August 2018, Sekerbaeva was detained, charged with “minor hooliganism,” and fined \$30 because she organized a photo shoot that she said was intended to destigmatize menstruation.

Lesbian, gay, bisexual, and transgender (LGBT) people in Kazakhstan routinely face harassment, discrimination, and the threat of violence.

“Kazakh authorities should reverse course and allow Feminista and all other groups arbitrarily denied registration to register and operate lawfully within the country,” Mills said. “Kazakhstan has nothing to fear from independent organizations and has obligations to live up to.”

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