

10 June 2013

KAZAKHSTAN: "Double punishment" of fines and exit bans

By Felix Corley, Forum 18

Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law describes the ban on leaving Kazakhstan for Baptists who refuse to pay fines imposed for exercising their freedom of religion or belief as "double punishment". But a senior Justice Ministry official claimed to Forum 18 News Service that "it isn't double punishment - it's a limitation on their actions until they pay their fines". Ever more individuals of a variety of faiths are being fined for meeting for worship without state permission, or for sharing their faith with others. Council of Churches Baptists, Jehovah's Witnesses and members of the Muslim Tabligh Jamaat missionary movement are particular targets. Zhovtis is also concerned that the travel ban "isn't governed by any law". "Officials .. simply take the decision and individuals don't have the proper opportunity to challenge this in court," Zhovtis told Forum 18. Several Baptists banned from travelling told Forum 18 they were not told of the court hearings where the travel bans were confirmed.

Human rights defender Yevgeni Zhovtis, of the Kazakhstan International Bureau for Human Rights and the Rule of Law, describes the ban on leaving Kazakhstan for Council of Churches Baptists who refuse to pay fines imposed for exercising their freedom of religion or belief as "double punishment". However, Saida Sagdat, Deputy Chair of the Justice Ministry's Committee for the Execution of Court Judgments rejected this. "It isn't double punishment – it's a limitation on their actions until they pay their fines", she told Forum 18 News Service from the capital Astana on 10 June.

"This is a method of pressure on those who don't pay these unjust fines to punish us for our religious activity", Aleksei Buka – one of the Baptists banned from travelling abroad – told Forum 18 from his home in Kievka in Karaganda Region on 10 June. "The court executor promised to cancel the exit ban immediately if I promised to pay."

Several Baptists on the list told Forum 18 they were merely handed decisions to ban them from foreign travel and were not told of court hearings that approved such bans.

Zhovtis is concerned that such individuals are punished for exercising their right to freedom of religion or belief. But he is also concerned that the travel ban – a restriction on an individual's rights - "isn't governed by any law".

"Officials of the Justice Ministry's Committee for the Execution of Court Judgments simply take the decision and individuals don't have the proper opportunity to challenge this in court," Zhovtis told Forum 18 from Almaty on 10 June.

Growing number of fines

A growing number of members of a variety of faiths are being fined under the Code of Administrative Offences for meeting for worship without state permission, or for sharing their faith with others. Council of Churches Baptists, Jehovah's Witnesses and members of the Muslim Tabligh Jamaat missionary movement are particular targets.

Council of Churches Baptists refuse to apply for state registration on principle. They risk being placed on the exit ban list as they have a policy of civil disobedience, refusing to pay fines they regard as unjust and in violation of Kazakhstan's human rights commitments.

At least 62 Council of Churches Baptists have been given such administrative fines since the beginning of 2013, a church member who tracks such prosecutions told Forum 18 on 7 June.

Sixteen administrative cases are currently underway to punish Jehovah's Witnesses. "Some have already been fined and are awaiting their appeals, others are waiting for their trial to begin," one Jehovah's Witness told Forum 18 on 10 June. "But these cases all end the same way – with fines." The Jehovah's Witness said so far none of their people are known to have been placed on the exit ban list or been prevented from travelling outside the country.

Justice Ministry exit ban lists

There are two relevant Justice Ministry lists – a list of people temporarily under an exit ban, and a register of debtors. Several Baptists banned from travelling told Forum 18 they were not told of the court hearings where the travel bans were confirmed.

Baptists are among the tens of thousands of people on the Justice Ministry Committee for the Execution of Court Judgments' "List of people temporarily banned from leaving the Republic of Kazakhstan".

They include:

1. Aleksei Asetov from Ekibastuz in Pavlodar Region, given a three-day prison term in May for refusing to pay a fine, imposed for meeting without state permission. The fine, equivalent to 485,400 Tenge (18,725 Norwegian Kroner, 2,486 Euros or 3,273 US Dollars), was handed down in February 2012. Local people estimated that this was about a year and a half's average local wages (see F18News 20 May 2013 http://www.forum18.org/archive.php?article_id=1837).
2. Aleksei Buka from Kievka in Karaganda Region, most recently fined in May (see below).
3. Andrei Grigoryev from Aktobe, most recently fined in March 2010 (see below).
4. Sergei Krasnov from Oral in West Kazakhstan Region, most recently fined about one month's average wages or 50 Monthly Financial Indicators (MFIs) under Article 374-1, Part 2 in February (see F18News 18 March 2013 http://www.forum18.org/archive.php?article_id=1814).
5. Ivan Yantsen from Temirtau in Karaganda Region, was fined in December 2011 for participating in unregistered religious worship (see F18News 14 February 2012 http://www.forum18.org/archive.php?article_id=1666).

The second list, also published on the Justice Ministry website, is the "Register of Debtors". This contains perhaps half a million names of those who cannot leave the country because they owe money. This includes not just those who have failed to pay court-imposed fines but people involved in commercial disputes and those who have failed to pay alimony.

While some Baptists are on both lists, those who are only on the second list include:

1. Vyacheslav Cherkasov from Shchuchinsk [Shchüinsk] in Akmola Region, fined in March for offering religious books on the street. The court ordered that the books – including Bibles – be destroyed, but this part of the decision was overturned on appeal (see F18News 10 April 2013 http://www.forum18.org/archive.php?article_id=1822).
2. Olga Kandyba from Semey in East Kazakhstan Region, fined in October 2011 for failing to ensure that the building she owned which was used as a church did not have adequate fire prevention measures. The appeal decision which upheld the fine – seen by Forum 18 – stressed that the congregation was not registered and had already been fined for this.
3. Pyotr Zimens from Shchuchinsk in Akmola Region, most recently fined in October 2011 for leading a congregation meeting without state permission (see F18News 15 November 2011 http://www.forum18.org/archive.php?article_id=1636).

Not informed of hearings

Court executor Anuar Kosmagambetov prepared an exit ban on Grigoryev, according to the copy seen by Forum 18. Describing him as a "debtor", it claims it is "necessary" to ban him from leaving Kazakhstan. It says a copy of the decision is to be sent to him, as well as to state agencies, including the National Security Committee (KNB) secret police Border Service. The order says it can be challenged in court.

The ban was sent on 22 March to Aktobe City Court, where it was approved on 25 March by Judge Kanat Sembekov.

Baptists told Forum 18 that Grigoryev was not informed of the hearing or invited to it and was not given a copy of the exit ban in writing. However, Article 33 of the Law on Enforcement Proceedings and the Status of Court Executors requires exit ban decisions to be confirmed by a court and sent to the person concerned in writing. It appears to allow appeals only in cases where the exit ban has been issued not as a result of a court decision.

Asetov and Buka were both handed copies of the exit ban by court executors in late 2012. In Asetov's case, the exit ban had already been approved by a judge, but he was not informed about the hearing or invited to it, he told Forum 18 on 10 June. Buka told Forum 18 that no court had approved the travel ban in his case.

Cherkasov told Forum 18 on 10 June that he had heard of the exit ban list, but has not been told that his name is on it.

Court executor Kosmagambetov defends his decision to ban Grigoryev from travelling abroad. "He has been fined more than once and hasn't fulfilled his debt to the state," he insisted to Forum 18 from Aktobe on 10 June. He insisted that he tried to give Grigoryev

copies of the exit ban but he refused to sign and accept them.

Asked why an individual should be punished even once, let alone twice, simply for meeting for worship, Kosmagambetov told Forum 18: "I'm just an executor."

No chance to challenge

Forum 18 was unable to reach Judge Sembekov at Aktobe City Court on 10 June to find out why Grigoryev had not been informed of and invited to the hearing that approved the exit ban.

Sagdat of the Committee for the Execution of Court Judgments insisted to Forum 18 that individuals – and her officials – have no choice but to accept the system. "We can't comment on court decisions or the basis of them – what is important is that the court has taken a decision," she told Forum 18. "Whether a person agrees with the court decision or not, as a state agency it is our duty to fulfil it."

Galym Shoikin, a Deputy Chair of the government's Agency of Religious Affairs, declined to discuss the fines and subsequent exit bans by telephone. "This issue isn't within our competence," he insisted to Forum 18 from Astana on 10 June.

Two refused exit so far

Two Council of Churches Baptists are known to have been prevented from leaving Kazakhstan because of unpaid fines. In autumn 2012, Buka wanted to visit Kyrgyzstan to seek medical treatment for his legs at a salt water lake where he has been treated before. However, he chose not to make the journey to the border after the court executor issued an order banning him from travelling abroad, he told Forum 18. He said church members later checked with border guards, who confirmed that his name is in the database of those banned from leaving Kazakhstan.

Buka refused to pay a fine handed down in December 2011 for participating in unregistered meetings for worship. The Regional Court rejected his appeal in January 2012 (see F18News 14 February 2012 http://www.forum18.org/Archive.php?article_id=1666).

On 17 September 2012, court executors tried to issue Buka with a record of a violation under Administrative Code Article 524 ("Failure to carry out court decisions") for refusal to pay the fine. However, the record – seen by Forum 18 – notes that he refused to sign. Four days later, Nuri District Court refused to hear the case, according to the decision seen by Forum 18, sending it back for further documentation.

Buka again refused to sign the record of a violation presented on 12 April 2013 and seen by Forum 18. Three days later, Nuri District Court again sent the case back to court executors for further documentation, according to the decision seen by Forum 18.

Nuri District Court finally heard the case in late May and sentenced him to three MFIs, he told Forum 18.

Similarly, Andrei Grigoryev was stopped by border guards as he tried to cross the border by car to Russia at Easter 2013.

Grigoryev has been fined several times for participating in unregistered meetings for worship. After he refused to pay a March 2007 fine, court executors seized the family's washing machine, music centre, documents for their Volkswagen car and his brother's trailer (see F18News 11 May 2007 http://www.forum18.org/Archive.php?article_id=954).

Grigoryev was most recently fined on 11 March 2010 by Aktobe's Specialised Administrative Court, according to the decision seen by Forum 18. He was found guilty under Administrative Code Article 374-1, Part 1 for leading unregistered meetings for worship. This Article bans "leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation". Grigoryev was for this "offence" fined about two months' average wages or 100 MFIs, 141,300 Tenge (then about (5,700 Norwegian Kroner, 700 Euros, or 955 US Dollars). (END)

For a personal commentary on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1352.

Reports on freedom of thought, conscience and belief in Kazakhstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=29>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Kazakhstan is available at
<http://education.nationalgeographic.com/mapping/outline-map/?map=Kazakhstan>.

All Forum 18 News Service material may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY