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KAZAKHSTAN: Pastor to be transferred from prison to house arrest

By Felix Corley, Forum 18 (<https://www.forum18.org>)

After nearly five months' imprisonment, a court in Kazakhstan's capital Astana has extended pre-trial detention for 66-year-old Presbyterian Pastor Bakhytzhan Kashkumbayev until 17 November, but changed the terms from prison to house arrest, according to the court decision seen by Forum 18 News Service. He is expected to be freed from prison tomorrow (8 October). Kashkumbayev will be "banned from associating with anyone apart from close relatives living with him, receiving and sending letters, holding conversations with the use of any communications devices," and will be able to leave his home only for medical appointments. Meanwhile, the criminal investigation of atheist Aleksandr Kharlamov – freed in September after nearly six months' detention – continues. He told Forum 18 he is grateful that doctors who conducted a month-long court-ordered psychiatric assessment were "very correct". One doctor told him after reading his file that they knew he was there "not because you're bad but because you are an inconvenient person for the authorities".

After nearly five months' detention – one month of it in psychiatric hospital – a court in Kazakhstan's capital Astana has ordered the transfer to house arrest of Presbyterian pastor Bakhytzhan Kashkumbayev, church members told Forum 18 News Service. He is expected to be freed from Astana's Investigation Prison tomorrow (8 October). However, his family stress that pre-trial restrictions have been extended until 17 November and Pastor Kashkumbayev will remain under tight restrictions under house arrest while the criminal investigation of him continues. He will be unable to communicate with the outside world and only be able to leave his home for medical appointments.

Kashkumbayev – who is due to mark his 67th birthday on 19 October - has not seen his wife Alfiya and all but one other family members since his 17 May arrest.

"Finally our request has been met that he will be held under more comfortable circumstances as we try to resolve the criminal accusations against him," one of his sons, Askar Kashkumbayev, told Forum 18 from Astana on 7 October. He was able to meet his father in the Investigation Prison earlier in the day and hopes he will be freed on 8 October.

Pastor Kashkumbayev's expected release from prison comes a month after atheist writer Aleksandr Kharlamov was freed from prison after nearly six months' pre-trial detention. Freed in Oskemen (Ust-Kamenogorsk) on 4 September, he too had been held for a month in a psychiatric hospital (see F18News 4 September 2013 http://www.forum18.org/archive.php?article_id=1871). One doctor had told him he had been sent to the psychiatric hospital "because you are an inconvenient person for the authorities". The criminal investigation against the 63-year-old Kharlamov continues (see below).

Kharlamov welcomed the court decision that Pastor Kashkumbayev should be freed, even if he will be under house arrest. He described criminal cases such as those against himself and Pastor Kashkumbayev as a "witch hunt". "We're going back not to the Middle Ages but to the Stone Age," he told Forum 18 from Ridder in East Kazakhstan Region on 7 October.

Systemic violations

The arrests, detentions and forcible psychiatric examinations of Kharlamov and Pastor Kashkumbayev are part of a wider pattern of systemic Kazakh government violations of freedom of religion or belief and other human rights. For example, all mosques outside state control are being closed down. Attendance at the Tatar-Bashkir Din-Muhammad Community in Petropavl in North Kazakhstan Region (which is challenging court-ordered liquidation) has dropped from hundreds to tens because "people are afraid of the authorities". The imam and members of another independent mosque denied re-registration after intense state pressure - who asked not to be identified - told Forum 18 that when they met to discuss applying for new registration, officials "came out of nowhere" and threatened them with punishment (see F18News 2 October 2013 http://www.forum18.org/archive.php?article_id=1882).

The authorities are also deporting non-citizens with legal residence to punish them for exercising their right to freedom of religion or belief, as well as apparently using minor infractions non-citizens may have committed to deport them (see F18News 4 October 2013 http://www.forum18.org/archive.php?article_id=18831).

On 1 October, nine human rights defenders added Pastor Kashkumbayev and two other prisoners to a list of political prisoners and called for their release, according to a statement published on the website of the Kazakhstan International Bureau for Human Rights and the Rule of Law. The signatories also expressed "cautious optimism" over Kharlamov's release and noted that he "continues to insist on his rights".

But as a new Norwegian Helsinki Committee / Freedom House report "Cunning democracy" notes, Kazakhstan has seen major steps backwards in all areas of human rights since 2011 while the government claims it is advancing democracy (see <http://www.nhc.no/en/kazakhstan-cunning-democracy/>).

House arrest

Presbyterian Pastor Kashkumbayev of Grace Church in Astana is to be transferred to house arrest on the decision of Judge Nurlan Bayakhmetov of Astana's Almaty District Court No. 2, according to the court decision seen by Forum 18. The 7 October hearing – to decide whether to extend Kashkumbayev's pre-trial detention – was convened very suddenly. "Our lawyer had to rush to the court and once again the investigator in the case was informed of the hearing before we were," family members complained to Forum 18 from Astana. However, they welcomed the decision to release him.

At the hearing, Prosecutor's Office official K. Artykbayev asked for Pastor Kashkumbayev's detention in prison to be extended by a further month – to 17 November. However, Judge Bayakhmetov agreed the extension but rejected the call for him to spend this time in prison. Noting Kashkumbayev's age and the fact that his health requires "suitable treatment", the Judge said his "complete isolation" was "not necessary". He ordered Kashkumbayev's transfer to house arrest.

According to the terms of the court decision, Kashkumbayev will be "banned from associating with anyone apart from close relatives living with him, receiving and sending letters, holding conversations with the use of any communications devices," while he can only leave his home to receive medical attention. The police have been ordered to supervise his behaviour.

The court decision can be challenged within three days, but any challenge does not halt the execution of the decision.

Five months' detention

Pastor Kashkumbayev was arrested on 17 May accused of violating Criminal Code Article 103, Part 1 ("Intentional inflicting of serious harm to health"). This carries a punishment of restrictions on freedom or imprisonment of between three and seven years. The criminal case had been opened in October 2012 "for causing considerable harm to the psychological health" of a church member.

The prosecutor alleged that "the crime was carried out by Kashkumbayev under the guise of carrying out charitable and religious activity by means of exerting psychological influence on church members, including with the use of stupefying substances with the aim of collecting gifts for the use of the association".

The "stupefying substances" appear to be a reference to the red tea used by the Church as a non-alcoholic communion wine. Church members told Forum 18 they buy the tea in local shops (see F18News 20 May 2013 http://www.forum18.org/archive.php?article_id=1837).

The prosecutor also referred to a September 2012 expert assessment of church member Lyazzat Almenova which claimed regular attendance at church had led her to develop "paranoid schizophrenia". Church members vigorously rejected such claims to Forum 18 in October 2011 when they were first made (see F18News 19 October 2012 http://www.forum18.org/archive.php?article_id=1756).

Almenova later wrote to Astana Prosecutor's Office to say she is psychiatrically healthy, that the 2012 assessment was conducted illegally and calling for the case to be abandoned. She also insisted to Forum 18 in July that Pastor Kashkumbayev "is totally innocent and has not harmed my health at all" (see F18News 26 July 2013 http://www.forum18.org/archive.php?article_id=1860).

No comment

Astana based senior police investigator Captain Vyacheslav Glazkov of the local Anti-Extremism Police is leading the criminal investigation. He is also leading a separate criminal investigation into as yet unnamed members of Kashkumbayev's Grace Church (see F18News 4 September 2013 http://www.forum18.org/archive.php?article_id=1871).

Captain Glazkov told Forum 18 he was not present for the court hearing on 7 October. He refused to comment on the decision to transfer Kashkumbayev to house arrest or to say if and when the criminal investigation will be completed.

Surveillance

Pastor Kashkumbayev's family told Forum 18 that on 4 October, they had arranged a meeting at Astana's Grace Church to discuss the case with visitors from the United States Commission on International Religious Freedom (USCIRF), together with US Embassy officials. Two cars with video cameras were waiting outside the church and filmed those arriving for the meeting.

"The authorities could only have known of the meeting from listening in to our phone calls," one church member complained to Forum 18. When a church member later went out to film the two cars and their activity, the two cars disappeared quickly.

Kharlamov case continues

Meanwhile, the criminal investigation against atheist writer Kharlamov continues in Ridder. He is being investigated for a second time under Criminal Code Article 164, Part 1 on charges of "inciting religious hatred" for articles he had written criticising religion.

Kharlamov was arrested on 14 March and initially held in Investigation Prison in East Kazakhstan Region. He spent a month in enforced psychiatric detention in Almaty's Republican Scientific/Practical Centre of Psychiatry, Psychotherapy and Narcology before being transferred back to prison in East Kazakhstan Region. His trial began on 19 July at Ridder City Court, but the case was sent back for further investigation on 13 August (see F18News 4 September 2013 http://www.forum18.org/archive.php?article_id=1871).

The case against Kharlamov is being led by police investigator Captain Alikhat Turakpayev. He summoned Kharlamov to his office at Ridder Police Station on 7 October to inform him that his writings on religion had been sent to Astana for a further "psychological/philological expert analysis". Kharlamov expects this to be completed in about a month.

"My articles contain criticism of religion, but no incitement to religious hatred," Kharlamov insisted to Forum 18. He welcomed widespread coverage of his case, including by Forum 18. "It is thanks to people like you – human rights defenders and journalists here and internationally – that I was freed."

Kharlamov noted that he cannot leave Ridder without special permission and has to be at home each night.

No drugs

Kharlamov also defended the doctors in Almaty who had been obliged by the court to consider whether or not he was psychologically healthy. "No drugs were administered to me and the doctors were very correct in relation to me," he told Forum 18. He noted that one doctor had told him after reading his file that they knew he was there "not because you're bad but because you are an inconvenient person for the authorities". The doctor had also read news articles on his case on the internet which Kharlamov said had also helped. He expressed gratitude to the medical staff for their findings that he is responsible for his actions.

Human rights defenders in Kazakhstan are concerned at the misuse of psychiatry in the Kharlamov and Kashkumbayev cases. Both cases, and that of Zinaida Mukhortova (a lawyer who has attacked official corruption and the political misuse of the judiciary), highlight the state's misuse of psychiatrists against those the state dislikes in freedom of religion or belief and opposition political cases. (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.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY