

7 December 2018

KAZAKHSTAN: Second long jailing for online Islamic talks

By Felix Corley, Forum 18

A court jailed 28-year-old father of one Dadash Mazhenov for over seven years for posting Islamic talks online, the second jailing by the same court. The secret police claimed the talks promoted terrorism, which both men reject. The judge sought to have Mazhenov's lawyer punished for "correctly defending the interests of his client".

A court in Kazakhstan's central Akmola Region has jailed a second Muslim for posting online talks on Islam which the authorities claim promoted terrorism. On 16 November, after 16 days of hearings over four months, Burabai District Court jailed the 28-year-old father of one Dadash Mazhenov for seven years and eight months in a general regime labour camp.

Mazhenov is appealing against his conviction but the appeal "will change nothing", his mother told Forum 18. "We will try to appeal everywhere," she added. "The case was fabricated" (see below).

Mazhenov was jailed for posting online four talks by Muslim teacher Kuanysh Bashpayev years before the talks were banned as "extremist". The court rejected the independent assessment of Bashpayev's talks Mazhenov's defence had commissioned (see below).

The prosecutor's office and judge are seeking to have Mazhenov's lawyer punished for "correctly defending the interests of his client", Mazhenov's wife told Forum 18 (see below).

In a parallel case to that of Mazhenov initiated by the same National Security Committee (KNB) secret police investigator, the same judge at the same court jailed another Muslim, 30-year-old Galymzhan Abilkairov, for seven years and seven months on 19 October. Abilkairov's appeal against his conviction is due to begin at Akmola Regional Court in Kokshetau on the morning of 19 December (see below).

Bashpayev was jailed in 2017 on "extremism" charges for talks on Islam that others recorded. He is being held at a prison in the western city of Aktau in Mangistau Region, where the authorities have held him in solitary confinement since autumn 2017. Prison officials refused to discuss his conditions with Forum 18 (see below).

On 15 November, a single judge at Kazakhstan's Supreme Court in the capital Astana rejected Sunni Muslim prisoner of conscience Imam Abdukhalil Abduzhabbarov's request for the Court to review his 2017 conviction and eight-year jail term. Abduzhabbarov is being held in Kyzylorda, where he has also been in solitary confinement since late 2017, though a prison officer denied this to Forum 18 (see below).

Erzhan Sharmukhambetov, a 38-year-old Muslim from the western city of Atyrau, has not been freed despite claims to Forum 18 from Investigation Prison officials. He has been allowed no access to his family following his 20 October arrest and those close to the case say he has been beaten in detention. The KNB secret police opened a criminal case in an apparent move to pressure him into testifying against Murat Bakrayev, a Muslim originally from Atyrau whose extradition from Germany the Kazakh authorities are seeking. A Muslim from the nearby town of Dossor appears to have been arrested on the same day (see below).

If Mazhenov and Abilkairov lose their Regional Court appeals, and if Sharmukhambetov is eventually tried and convicted, they are likely to be added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". This means that any bank accounts they may have will be blocked with no further legal process. Their families will be allowed to withdraw only small amounts for daily living if they do not have other sources of income (http://www.forum18.org/archive.php?article_id=2409). Bashpayev and Abduzhabbarov are among many prisoners of conscience on the list.

Many Muslim prisoners of conscience jailed for exercising their freedom of religion or belief have stated that they are banned from reading the Koran and other religious books, and prevented from saying the namaz (obligatory Muslim daily prayers). This and the forcible shaving off of beards appears to be a standard punishment imposed on such prisoners. (http://www.forum18.org/archive.php?article_id=2409)

Mazhenov: Long jail term for posting Islamic talks online

Shchuchinsk resident Dadash Temergaliyevich Mazhenov (born 28 September 1990) has been jailed for seven years and eight months in a general regime labour camp. After 16 days of hearings over four months, Judge Zhanna Salykbayeva of Burabai District Court convicted him on 16 November under Criminal Code Article 256, Part 2, according to the verdict seen by Forum 18. Mazhenov rejected the accusations.

Article 256, Part 2 punishes "Propaganda of terrorism or public calls to commit terrorism" - which includes the production, storage for distribution or distribution of [unspecified in the Article] specified materials - committed by an individual using a state or non-state official position, or with the use of the mass media or other communication networks, or with foreign support, or in a group". The punishment is seven to 12 years' imprisonment with confiscation of property.

The Judge also ordered Mazhenov to pay a fee of 60,790.14 Tenge to the Justice Ministry's Centre for Judicial "Expert" Analysis for an analysis in the case.

In a case initiated by the KNB secret police, Mazhenov was accused of posting online four talks on Islam by Kuanysh Bashpayev. In a 17 April assessment commissioned by the KNB, seen by Forum 18, two "experts" Sholpan Azhibayeva and Ziyadyam Abdulzhanova concluded that the recordings do not incite religious or other hatred and discord or the violent overthrow of the government.

The third "expert", Aigerim Seifullina, however, claimed that the recordings constituted "propaganda of terrorism" by "spreading concepts justifying the use of violent acts on a religious basis". She added that the recordings contained no public calls to commit terrorism or to form organisations to conduct terrorism.

Mazhenov rejected this assessment. However, the Judge refused to accept an independent assessment the defence had commissioned.

"I never and to no one conducted propaganda of anything connected to religion," Mazhenov told Saniya Toiken of Radio Free Europe's Kazakh Service during a break in trial proceedings on 22 October. "I am interested in nothing except my family. Of course when my son, who is not yet one, grows up I will tell him he is a Muslim and should pray the namaz. I'm an adherent of ordinary Salafism. We never spoke up against our ruler [President Nursultan Nazarbayev] and we do not call on anyone to do this."

Mazhenov is appealing against his conviction to Akmola Regional Court, but the appeal "will change nothing", his mother Irina Mazhenova told Forum 18 on 4 December. "We will try to appeal everywhere," she added. "The case was fabricated."

Mazhenov is still being held in the Investigation Prison in Kokshetau. During the trial he was taken to the detention centre in Shchuchinsk, but then returned to Kokshetau after the hearings.

"Dadash is not banned from praying," Irina Mazhenova told Forum 18. "But he is only allowed a Koran if the [state-approved] imam has stamped it. He doesn't have one, though the library has a copy." She said that the head of the Investigation Prison has to approve any religious book before a prisoner is allowed to receive it.

Mazhenov: Prosecutor's Office, Judge complain about lawyer

On 16 November, at the request of Burabai District Prosecutor's Office, Judge Salykbayeva adopted an individual decision against Bauyrzhan Azanov, Mazhenov's lawyer in the earlier part of the case, demanding that Pavlodar Region's College of Advocates punish him. She claimed he had been artificially dragging out the trial.

"They are persecuting the lawyer Bauyrzhan Azanov for his professional activity as a lawyer, for correctly defending the interests of his client," Mazhenov's wife Yurana told Forum 18 on 6 December. "Unfortunately his professional opponents did not like this." She described Azanov as a "decent man who is carrying out his work excellently".

Abilkairov: Appeal against long jail term imminent

The appeal by another Shchuchinsk Muslim Galymzhan Ramazanovich Abilkairov (born 29 January 1988) reached Akmola Regional Court in Kokshetau on 30 November. He was jailed in a parallel case to that of Mazhenov initiated by the same KNB secret police investigator. The Court is due to begin hearing Abilkairov's appeal on the morning of 19 December, according to court records.

Abilkairov is appealing against his conviction for posting on social media four talks by Bashpayev about Islam. Burabai District Court in Shchuchinsk jailed him for seven years and seven months on 19 October under Criminal Code Article 256, Part 2 ("Propaganda of terrorism or public calls to commit terrorism"). (http://www.forum18.org/archive.php?article_id=2427)

The Judge also ordered Abilkairov to pay a fee of 61,137.58 Tenge to the Justice Ministry's Centre for Judicial "Expert" Analysis for an analysis in the case.

Bashpayev: More than a year in solitary confinement

Sunni Muslim prisoner of conscience Kuanysh Ablayevich Bashpayev (born 3 February 1987) has been in solitary confinement since autumn 2017, his lawyer Bauyrzhan Azanov told Forum 18 on 4 December. He had tried to visit his client on 30 November at his prison in Aktau in the western Mangistau Region, but had been denied access. "I don't know why he's in solitary confinement," Azanov added.

An official of the special department at the prison in Aktau – who would not give his name – refused to discuss Bashpayev's conditions or whether he is able to pray and have religious literature of his choice. "Prisoners are in solitary confinement if the court decreed it," the official told Forum 18 from Aktau on 7 December. "They're sentenced, they're brought here, that's it." He then put the phone down.

In 2011, the then-United Nations (UN) Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Juan Mendez condemned the use of solitary confinement, including in Kazakhstan, stating it could amount to torture. (http://www.forum18.org/archive.php?article_id=2409)

Bashpayev was arrested in October 2016 and sentenced by a Pavlodar court in April 2017. He was jailed for four and a half years under the old Criminal Code Article 164, Part 1 ("inciting religious hatred") for speaking about Islam. (http://www.forum18.org/archive.php?article_id=2272)

Bashpayev's prison address:

Mangistauskaya Oblast

g. Aktau

25 mikroraion

Zdanie No. 49

Uchr. GM-172/10

Bashpayevu Kuanyshu Ablayevichu

Kazakhstan

Abduzhabbarov: Supreme Court refuses to hear last-ditch appeal

Sunni Muslim prisoner of conscience Imam Abdukhalil Abdukhamidovich Abduzhabbarov (born 6 April 1975) has failed in his last-ditch appeal against his conviction and jailing. On 15 November, Judge Daulen Nuralin at the Supreme Court in Astana rejected his request for the Court to review his 2017 conviction and eight-year jail term, according to the decision seen by Forum 18.

Imam Abdukhalil Abduzhabbarov had lodged his appeal in October 2018. (http://www.forum18.org/archive.php?article_id=2427)

"The Judge – sitting alone – ruled that there was no basis to reconsider the decision of the lower courts," the Supreme Court press service told Forum 18 on 6 December. "The decision was communicated to Abduzhabbarov's lawyer, Tleubai Satbekov."

Kazakhstan gained Imam Abduzhabbarov's extradition from Saudi Arabia and he was arrested as he landed back in the country in 2017. He was jailed for eight years in August 2017 for sermons he gave before he left Kazakhstan in 2006. (http://www.forum18.org/archive.php?article_id=2311)

Since late 2017 Imam Abduzhabbarov has been in solitary confinement in a prison in Kyzylorda, where he is allowed just two meetings with relatives each year. He last saw his wife in April 2018 and is not due to see her again until 2019. The prison administration refused to allow him to have a copy of the Koran in Arabic. (http://www.forum18.org/archive.php?article_id=2423)

"They only allow Abdukhalil out for a short walk a couple of times a week, just for a few minutes," relatives told Forum 18 on 6 December.

However, a prison official – who would not give his name – denied that Imam Abduzhabbarov is in solitary confinement. "Who told

you that?" he asked Forum 18 on 7 December. "With other prisoners he is allowed exercise each day for an hour and a half." The official refused to explain why officials refused to allow him to have a Koran in Arabic.

Imam Abduzhabbarov's prison address:

Kyzylordinskaya Oblast

120001 g. Kyzylorda

ul. Tole bi 112

Uchr. ZK-169/1

Abduzhabbarovu Abdukhalilu Abdukhamidovichu

Kazakhstan

Sharmukhambetov: Torture as criminal investigation continues?

Erzhan Ruslanovich Sharmukhambetov (born 26 November 1980), a Muslim from the western city of Atyrau, has been held at Atyrau's Investigation Prison UG-157/1.

An official at the prison's special department – who did not give her name – claimed to Forum 18 on 7 December that he had been freed the previous day. She said a court had ordered Sharmukhambetov's transfer to "conditional detention".

However, an official at Atyrau Region Specialised Inter-District Criminal Court – who did not give her name – denied that the court had held any hearing in the previous days about Sharmukhambetov's terms of detention as the criminal case against him proceeds.

Those who know Sharmukhambetov insisted to Forum 18 that he has not been freed. "He is being beaten in detention," they told Forum 18.

Sharmukhambetov has been allowed no access to his family since his 20 October arrest. "They were not even told where he was being held," those close to the case told Forum 18. "They feared he might be being tortured to extract the testimony the officials want."

Following his arrest, Atyrau Region Specialised Inter-District Criminal Court ordered that Sharmukhambetov be held in pre-trial detention for two months, which is due to expire on 20 December. (http://www.forum18.org/archive.php?article_id=2427) KNB secret police Investigator Nurzhan Bisengaliyev will have to go back to court to have the detention extended if he wishes to continue to hold him.

Those close to the case say the KNB secret police are investigating Sharmukhambetov on terrorism-related charges, possibly Criminal Code Article 256 ("Propaganda of terrorism or public calls to commit terrorism").

Investigator Bisengaliyev on 24 October refused to give Forum 18 any information about the case – including what Article of the Criminal Code Sharmukhambetov is being investigated under or where he is being held. Bisengaliyev's telephone went unanswered each time Forum 18 called on 6 and 7 December.

The KNB secret police opened a criminal case against Sharmukhambetov in an apparent move to pressure him into testifying against Murat Bakrayev, a Muslim originally from Atyrau whose extradition from Germany the Kazakh authorities are seeking. (http://www.forum18.org/archive.php?article_id=2423)

A Muslim from the nearby town of Dossor – Ermek Serikovich Kuanshaliyev - appears to have been arrested on the same day as Sharmukhambetov, also for alleged connections with Bakrayev. (http://www.forum18.org/archive.php?article_id=2427) Forum 18 has been unable to find out if Kuanshaliyev is still in detention, if so why and what charges he might be facing. (END)

Full reports on freedom of thought, conscience and belief in Kazakhstan
(<http://www.forum18.org/Archive.php?query=&religion=all&country=29>)

For more background, see Forum 18's Kazakhstan religious freedom survey (http://www.forum18.org/Archive.php?article_id=2409)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/Archive.php?article_id=1351)

A printer-friendly map of Kazakhstan

(<http://nationalgeographic.org/education/classroom-resources/mapping/outline-map/?map=Kazakhstan>)

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