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KYRGYZSTAN: NSC secret police behind "needed" new religious freedom punishments

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

Kyrgyzstan's State Commission for Religious Affairs (SCRA), with the help of the National Security Committee (NSC) secret police, formulated proposed new punishments for exercising the right to religious freedom, an NSC official told Forum 18 News Service. The proposed new punishments are included in Justice Ministry amendments to the Code of Administrative Offences, which considerably increase both the range of activities which are punishable and potential penalties. The Committee of Ministers Department, whose approval is necessary before the amendments can reach Parliament, has returned them to the Justice Ministry for more work. Galina Kolodzinskaia of the Inter-religious Council told Forum 18 that religious leaders "without exception were very worried about the amendments". She added that "if adopted, the punishments will definitely be used. We regard them as a way for the authorities to collect money from religious communities." NSC secret police and Interior Ministry officials stressed to Forum 18 that they support introduction of the "needed" new punishments.

Kyrgyzstan's State Commission for Religious Affairs (SCRA), with the help of the National Security Committee (NSC) secret police, has formulated proposed new administrative punishments on individuals and communities for exercising their right to freedom of religion or belief, an NSC official told Forum 18 News Service from the capital Bishkek. The proposed new punishments are included in Justice Ministry proposed amendments to the Code of Administrative Offences now working their way through the government bureaucracy.

In late December 2012 the Committee of Ministers Department rejected the Justice Ministry's initial version of the amendments on procedural grounds and returned them for further work. However, NSC secret police and Interior Ministry officials told Forum 18 they support the introduction of these new punishments. Approval from the Committee of Ministers Department is required before the amendments can be presented for approval in Kyrgyzstan's single-chamber parliament, the Zhogorku Kenesh.

Justice Ministry officials, speaking on condition of anonymity, stressed to Forum 18 that the parts of the proposed amendments which would widen the punishments for religious activity were not their initiative. They said the Ministry had been pressured to include them by other government agencies, which they declined to identify.

Current administrative penalties

The current Administrative Code Article 395 is much shorter than the proposed new Article. It punishes refusal by religious leaders to register their organisations, violation of procedures for holding religious meetings and processions, and organising religious groups for young people and other specific groups. Punishments are fines of up to five financial indicators. Records of "violations" are drawn up by the SCRA for presentation to court.

Forum 18 is not aware of cases brought under Administrative Code Article 395 in recent years.

New "offences"

In the proposed draft Administrative Code amendments now back with the Justice Ministry, Article 395 – which punishes violations of the Religion Law – is rewritten and considerably widened.

Clauses 4 and 5 of the Article's Part 1 would punish conducting unregistered religious activity, or refusing to register a religious organisation.

Clause 6 would punish holding prayers and other religious rituals in places not approved by the state for such purposes.

Clause 7 would punish teaching religious beliefs without personal registration to do so.

Clause 8 (a provision in the current Article 395) would punish "violating procedures established by law for the organising and

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conducting of religious meetings, processions and other worship ceremonies".

Clause 9 (a provision also in the current Article 395) would punish clergy and others who set up religious groups for young people, as well as literature, work and other groups "not related to the performance of worship".

Clause 10 would punish religious organisations who conduct any activity contradicting the aims and objectives in their statutes.

Clause 12 would punish "the approaching by believers of one denomination to others (proselytism), as well as any illegal missionary activity".

Other provisions of the new Article 395 would punish forcing children to participate in religious activity, as well as punishing religious leaders who attempt to pressure state bodies.

Article 395, Part 2 would punish violations of the Religion Law by religious organisations.

The draft also proposes a new Article 395-1, to punish violation of laws on religious freedom by foreign organisations and foreigners. Any religious activity without state registration by foreign organisations and individuals, as well as repeated violations of the Religion Law and systematic activity contradicting a religious organisation's registered statute, would be punished by fines on the organisations and individuals, deportation for the individuals and a ban on the activity of organisations, including local branches of foreign organisations.

New punishments

Punishments under the new Article 395 for first time offences would be between 50 and 70 Financial Indicators for individuals, between 100 and 150 for religious leaders, and between 200 and 300 for religious organisations. Fines would increase for repeat offences within one year.

Each Financial Indicator is currently set at 100 Soms (12 Norwegian Kroner, 1.6 Euros or 2 US Dollars).

Another new Article 395-2 would punish leadership, participation in or financing of unregistered, banned or suspended religious and social organisations.

Leaders of such organisations would face fines of 100 to 150 Financial Indicators, while participants face fines of 50 to 100. Individuals who finance such organisations face fines of 100 to 150 Financial Indicators, officials of 150 to 200, and organisations of 400 to 500.

For "violations" under all provisions of Article 395, Article 395-1 and Article 395-2, the SCRA would have the exclusive power to draw up records of a violation and send it to court.

"Offences" and punishments "needed"

"The SCRA initially wrote the text of the new Administrative Code articles and we reformulated them in more detail," Emil Beishekeev of the NSC secret police's Legal Department told Forum 18 from Bishkek on 8 January. He stressed that all government agencies had approved the Justice Ministry draft. Told that the Committee of Ministers Department had sent the text back to the Justice Ministry for further work, he insisted that the punishments in the draft are needed and that the NSC supports them.

Similarly backing the proposed new punishments was an official of the Interior Ministry's Legal Department. "We didn't propose these changes, but we gave them our backing," the official, who did not give his name, told Forum 18 from Bishkek on 8 January.

Kanybek Mamataliyev of the SCRA denied to Forum 18 on 8 January that his agency had initiated the proposed new punishments, but conceded that he had only been at the Bishkek office of the SCRA for the past two months. "So I can't say if the Commission wants or doesn't want these new punishments to be introduced."

Religious communities' concerns

Galina Kolodzinskaia of the Inter-religious Council in the Kyrgyz Republic said the Council discussed the proposed amendments at its 8 January meeting. "All of the religious leaders present without exception were very worried about the amendments," she told Forum 18 from Bishkek the same day. "If adopted, the punishments will definitely be used. We regard them as a way for the authorities to collect money from religious communities.

Kolodzinskaia said members of the Council plan to make their opposition known to the government and parliamentary deputies.

The Inter-religious Council received Justice Ministry registration on 18 December 2012 after the SCRA had also given its approval.

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The Council brings together representatives of the Muslim Board, and of the Protestant, Jewish and Buddhist communities.

"Further work"

On 31 October 2012, the government website published the text of draft amendments to the Code of Administrative Offences prepared by the Justice Ministry in consultation with other state agencies. Public consultations lasted one month. "Unfortunately, no one submitted any comments on the draft amendments," Justice Ministry State Secretary Chinara Mamidinova told Forum 18 from Bishkek on 17 December 2012.

The draft amendments were sent to the Committee of Ministers Department for its approval on 14 December 2012. At its Legal Department, the draft amendments were handed to Natalya Sergeeva. However, she rejected them "on procedural grounds" and returned them to the Justice Ministry "for further work" on 31 December 2012. "The return of the draft was not because of the proposed punishments for religious activity," she told Forum 18 from Bishkek on 8 January. "We didn't examine the content of the draft."

Sergeeva said she did not know if the Justice Ministry will revise and resubmit the draft amendments. She declined to say whether the Committee of Ministers Department's Legal Department would object to the proposed new religious punishments were the draft amendments to be revised and resubmitted.

Aida Kurmanbaeva of the Justice Ministry's Legislative Drafting Department told Forum 18 on 8 January that she had not yet received any official notification of the Committee of Ministers Department's response to the amendments. "Only once we get a response will the leadership of our Ministry be able to take a decision as to the way forward," she said. She declined to say whether the Justice Ministry will revise and resubmit the draft Administrative Code amendments to the Committee of Ministers Department.

"Legal loophole for illegal activity"

In its justification for the amendments, also published on the government website in October 2012, Justice Minister Almambet Shikhmamatov insisted they were necessary "to remove inconsistencies and gaps in current legislation, on the basis of proposals from state bodies". He did not identify which state body had proposed the amendments to punish religious activity.

The Justice Minister noted that the Religion Law "establishes a range of demands and bans for religious organisations". "However, up till now concrete forms of responsibility have not been legally envisaged, forming a legal loophole for illegal activity by religious organisations," he claimed. He maintained that the state does not currently have powers to stop religious organisations breaking the Religion Law and the "constitutional rights of citizens".

Shikhmamatov insisted that the new Articles punishing religious activity would "allow the state to ensure fully the controlling functions and secure the protection of the individual and society from illegal activities by religious organisations and individual people".

Beishekeev of the NSC secret police rejected suggestions that many of the provisions – if adopted – could be used to punish people for exercising their right to freedom of religion or belief. "We abide by all Kyrgyzstan's international human rights commitments," he claimed to Forum 18.

Asked why, for example, individuals could be punished for leading or participating in meetings for worship without state permission Beishekeev responded: "All communities must be registered with the State Commission – that's the law." Asked why, given Kyrgyzstan's international human rights commitments, he said: "I can't give a commentary on every provision of these amendments."

Consultation closed – or not?

Although the public consultation period on the proposed Administrative Code amendments closed on 30 November 2012, Justice Ministry State Secretary Mamidinova insisted in December 2012 that work on the draft text was not finished. "We're still open for comments," she told Forum 18. "If you have objections you can send them in. No one said the draft has to be adopted in its current form."

Wide-ranging legal changes

Moves to widen punishments for religious activity came as further wide-ranging draft amendments to the Religion Law prepared by the SCRA began passage in parliament in October 2012. If eventually adopted, the government-backed Religion Law amendments would ban sending students to foreign religious colleges without government permission, require each religious community to have 200 local citizen adult founders in one locality and ban foreigners from conducting any religious activity without being licensed by the state (see F18News 19 December 2012 http://www.forum18.org/Archive.php?article_id=1784).

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The current restrictive Religion Law was adopted in 2008 and came into force in January 2009, a year before then President Kurmanbek Bakiev was ousted from power (see Forum 18's Kyrgyzstan religious freedom surveys at http://www.forum18.org/Analyses.php?region=30). Parliamentary deputies and government agencies have repeatedly tried to harshen its provisions.

New censorship amendments to the Religion Law were signed by President Almazbek Atambayev on 7 December 2012. State officials have refused to explain how the amendments – which increase state control over religious literature and other materials - will be implemented (see F18News 13 December 2012 http://www.forum18.org/Archive.php?article_id=1781).

Planned Religious Education Law

Kolodzinskaia of the Inter-religious Council also expressed concern over a proposed Religious Education Law planned by Zhogorku Kenesh deputy Kanybek Osmonaliev.

He was Chair of the State Agency for Religious Affairs (the SCRA's predecessor) under the discredited regime of ex-President Kurmanbek Bakiev, which was preparing a similar law (see F18News 6 November 2009 http://www.forum18.org/Archive.php?article_id=1373).

Kolodzinskaia said that Deputy Osmnaliev has invited representatives of the Muslim Board to a meeting in Bishkek on 30 January, before he presents his draft law to the Zhogorku Kenesh. But no other religious community is known to have been invited to this meeting. (END)

For background information see Forum 18's Kyrgyzstan religious freedom surveys at http://www.forum18.org/Analyses.php?region=30.

More reports on freedom of thought, conscience and belief in Kyrgyzstan can be found at http://www.forum18.org/Archive.php?query=&religion=all&country=30.

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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