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KAZAKHSTAN: "Not accused of extremism", but punished

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

Nauatbek Kalymbetov, head of Jambyl Region Police's Department for the Struggle against Extremism, personally questioned two Jehovah's Witnesses detained for talking to others about their faith on a Taraz street. His department sent a report to court when the two were fined two months' average wages each. Yet he repeatedly refused to explain why punishing two women for speaking to others about their faith was an issue for his Department. "I'm not accusing them of extremism, but they broke the law," Kalymbetov insisted to Forum 18 News Service. Dozens of administrative fines for exercising the right to freedom of religion or belief are known to have been issued across Kazakhstan in 2014 so far. A new Administrative Code now in the upper house of parliament would require deportation even for Kazakh citizens who conduct "missionary activity" without the required personal prior state permission. And religious communities which commit two "offences" within a year could be banned permanently.

The head of Jambyl Region Police's Department for the Struggle against Extremism has defended his role in the administrative punishment of two female Jehovah's Witnesses for speaking to others about their faith on the street. "Several of my officers were sent when the women were detained and I spoke to them at the police station," Nauatbek Kalymbetov told Forum 18 News Service from the regional capital Taraz close to Kazakhstan's southern border on 21 May.

But he repeatedly refused to say why punishing two women for speaking to others about their faith was an issue for the Department for the Struggle against Extremism. "I'm not accusing them of extremism, but they broke the law," Kalymbetov insisted to Forum 18. He refused to discuss any other aspect of the case and put the phone down.

The court decisions in the cases reveal the range of state agencies involved in securing punishment, Forum 18 notes. Officers from local police station No. 12 in Taraz's Second Police District detained the two women on 22 January, while the Department for the Struggle against Extremism interrogated the two and prepared a written report for the court.

Prosecutor's Office officials took statements from least three neighbours of each of the two women to establish that they are Jehovah's Witnesses, as well as other individuals not identified in court documents.

Prosecutors also asked the Jambyl Regional Religious Affairs Department to confirm that the two women did not have the personal registration as "missionaries" requested by a registered religious community before anyone – whether a Kazakh or foreign citizen – has the right to talk about their faith to others outside their community.

Fined

The cases were then handed to court. On 28 March, Judge Kamar Usembayeva of Taraz Specialised Administrative Court found Tatyana Vongai and Oksana Alekseyeva guilty of violating Administrative Code Article 375, Part 3, according to the decisions seen by Forum 18.

Article 375, Part 3 punishes "The carrying out of missionary activity by citizens of the Republic of Kazakhstan, foreigners and persons without citizenship without registration (re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment of a religious studies expert analysis".

Judge Usembayeva fined each of them 100 Minimum Financial Indicators (MFIs), 185,200 Tenge (6,000 Norwegian Kroner, Euros or 1,000 US Dollars). This is about two months' average wages for those in work. However, the 59-year-old Vongai is a pensioner, while the 37-year-old Alekseyeva does not have a job.

In court, the man who the two women approached outside the student polyclinic, S. Suimbayev, said he had called the police after they began discussing their faith with him. He told the court that police had asked him to hold on to the women to stop them leaving until they arrived and he had done so, holding at least one of the women.

Forum 18 was unable to find out why the local police appear to have asked Suimbayev to hold at least one of the women and why

they had sought their detention. The telephone of Lieutenant-Colonel Nariman Aliyev, head of its Second Police District, went unanswered each time Forum 18 called on 21 May. The duty officer declined to discuss the case, saying only Aliyev or Police Station No. 12 could respond. The officer who answered the phone at Police Station No. 12, who gave his name only as Yermek, told Forum 18 he had only worked there for three months. He said no one who had been there in January was present.

Vongai and Alekseyeva appealed against their convictions and fines, but in separate hearings at Jambyl Regional Court on 18 April, Judge Gulnar Syzdykova rejected both their appeals, according to the decision seen by Forum 18.

Third prosecution this year

The punishments handed down on Vongai and Alekseyeva in Taraz – and the efforts of a wide range of officials from different state agencies to secure the punishments – are typical of many similar prosecutions under the Administrative Code to punish individuals for exercising their right to freedom of religion or belief. Nearly 50 such administrative punishments are known to have been handed down in the first ten weeks of 2014 alone (see F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937).

In another recent case, Shymkent-based Muslim Bakytzhan Nuskabayev is facing a third administrative prosecution this year. His latest case is due to be heard at Shymkent's Specialised Administrative Court on 29 May, according to the court. He faces prosecution under Administrative Code Article 375, Part 1.

Article 375, Part 1 punishes "Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship".

On 17 February, Judge Marat Onlasov of the Specialised Administrative Court had found Nuskabayev guilty under Administrative Code Article 375, Part 3 for carrying out "missionary activity" on 14 January. He fined him 100 MFIs.

The same judge at the same court also fined Nuskabayev 100 MFIs under Article 375, Part 1 on 6 March, according to the decision seen by Forum 18. He was accused of duplicating 27-page booklets on the Tabligh Jamaat missionary movement in a private flat on 9 January.

The Tabligh Jamaat movement was declared "extremist" and banned by a District Court in Astana in February 2013. The Regional Religious Affairs Department had warned Nuskabayev in writing on 4 March that the movement was illegal.

However, the court decisions in Nuskabayev's case make no mention that the publication he was copying or his "missionary activity" was extremist.

Forum 18 was unable to reach either of the two officials involved in the case at Shymkent's Enbekshi District Prosecutor's Office on 21 May. Zh. Tulegenova – who had led the first prosecution in court – was unavailable, while Meruet Dosmakhambetova – who had led the second prosecution – was out at a court hearing, colleagues told Forum 18.

Other fines for sharing faith

Among other recent administrative punishments for exercising the right to freedom of religion or belief, a second Jehovah's Witness in Oskemen - Akmaral Serikova – was fined 100 MFIs at the town's Specialised Administrative Court on 28 March. The punishment was handed down under Administrative Code Article 375, Part 3, according to the verdict seen by Forum 18.

The same court had fined her fellow Jehovah's Witness Gulsuna Kadenova on the same charges on 13 February (see F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937).

East Kazakhstan Regional Court rejected Kadenova's appeal on 13 March and Serikova's on 23 April, according to the decisions seen by Forum 18.

More commercial booksellers fined?

Commercial booksellers who sell religious literature without the required special licence to do so are often fined. Three such named individuals are known to have been fined in the first ten weeks of 2014 (see F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937).

The deputy head of Kostanai Regional Administration, Serik Bekturganov, announced on 16 May that nine individuals in the Region had been discovered in the first three months of 2014 distributing religious literature "illegally" without the required state permission, according to the administration website. He did not indicate if the nine individuals were warned or fined. Nor did he identify the nine and Forum 18 has been unable to identify them.

Nearly punished

Two Jehovah's Witnesses narrowly avoided punishment under Administrative Code Article 375, Part 3 for talking about their faith with others. On 4 May, Kurchatov Town Court in East Kazakhstan Region closed the cases against Sergei Kucherin and Mikhail Tsurkan as the deadline for bringing such cases had expired, the court chancellery told Forum 18 on 21 May.

The cases against Kucherin and Tsurkan were launched in December 2013. However, the court initially sent them back because officials had not prepared the cases properly (see F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937).

In another case, commercial bookseller Gulzhibek Baltagireyeva had her earlier fine overturned on appeal at North Kazakhstan Regional Court on 17 March, according to the decision seen by Forum 18. The court ruled that the deadline for considering such a case had expired by the time the case was brought to the lower court.

Baltagireyeva had been fined 100 MFIs on 17 February by Taiynsha District Court under Article 375, Part 1 for selling religious materials in her shop without the required state licence to sell such materials (see F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937).

New proposed administrative punishments

A proposed new Administrative Code is currently being considered by the Senate, the upper house of Parliament. The draft, prepared by the Justice Ministry, reached the Majilis (lower house) in November 2013. It was approved on second reading there on 30 April 2014 and sent to the Senate on 12 May. The Senate website gives a deadline for adopting the new Code of 10 July. Once approved, the new Code would come into force three months after its official publication.

The Senate is also considering a proposed new Criminal Code and a new Criminal Implementation Code. Both have also already been approved by the Majilis. Human rights defenders have heavily criticised provisions in all three proposed new Codes.

Leading or taking part in a meeting for a religious purpose without state permission will – if the proposed new Codes are adopted in the current form – be punished in future as criminal rather than administrative "offences" (see F18News 16 May 2014 http://www.forum18.org/archive.php?article_id=1959).

In the draft new Administrative Code, other current "offences" have been transferred to a new Article 475, which punishes "Violating the law on religious activity and religious associations", according to the text now in the Senate and seen by Forum 18.

Part 1 would punish violating procedures for: conducting religious rituals; carrying out charitable activity; importing, publishing or distributing religious books, materials and items; and building new places of worship or changing the designation of buildings into places of worship. Punishments would be fines on individuals of 50 MFIs, and on legal entities of 200 MFIs with a three-month suspension of their activities.

Part 2 punishes those who obstruct others' legal religious activity, insult religious feelings or desecrate sacred buildings or objects.

Part 3 punishes carrying out missionary activity without personal state permission to do so, whether by Kazakh or foreign citizens, as well as using for this religious literature which has not been approved under the compulsory prior censorship of all printed, published or imported religious literature. Punishments would be fines on individuals of 100 MFIs with deportation from the country. Bizarrely, this provision would require Kazakh citizens to be deported from their own country for exercising the right to freedom of religion or belief.

Part 4 punishes registered religious associations which carry out activity not specifically included in their statute. Punishments would be fines on religious leaders of 200 MFIs, and on legal entities of 300 MFIs with a three-month suspension of their activities.

Part 5 punishes religious associations for political activity or financing political activity, or for interfering in the activity of state bodies.

Part 6 punishes forming branches of religious organisations in state bodies and institutions, including health and educational institutions. Punishments would be fines on officials of 100 MFIs, and on legal entities of 200 MFIs.

Part 7 punishes leading a religious association if the individual has been appointed by a foreign religious body without the prior approval of the government's Agency of Religious Affairs, as well as failure by religious leaders to take measures to prevent children from participating in religious activity against the wishes of at least one parent or guardian. Punishments would be fines of 50 MFIs with deportation from the country. Bizarrely, this provision too would require Kazakh citizens to be deported from their own country for exercising the right to freedom of religion or belief.

Part 8 punishes repeat "offences" under Parts 1, 2, 3, 4 and 6 of this Article within a year of a previous punishment. New punishments would be a fine on individuals of 200 MFIs, on legal entities of 500 MFIs and a ban on their activity. (END)

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>.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1939.

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

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](mailto:f18news@editor.forum18.org)

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY