

8 June 2016

KAZAKHSTAN: 31st criminal conviction since December 2014

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

Kazakhstan has jailed Murat Takaumov for 9 months for alleged membership of Tabligh Jamaat, the 31st Muslim to be convicted. Five more alleged members are under investigation. And 12 Kazakh organisations have strongly criticised the government's ICCPR record to the UN Human Rights Committee.

Kazakhstan has sentenced another Sunni Muslim prisoner of conscience for exercising freedom of religion and belief. Murat Takaumov was accused of membership of the Tabligh Jamaat missionary movement and given a nine-month jail term on 2 June, six months after his arrest. This brings to 31 the number of Muslims given criminal sentences for their alleged involvement in the Tabligh Jamaat movement since December 2014. Of these, 19 were given prison terms. Five more alleged Tabligh Jamaat members in Oskemen (Ust-Kamenogorsk) are under criminal investigation on the same "extremism" charges. The NSC secret police initiated Takaumov's prosecution and used a spy to infiltrate the movement to gather evidence for his prosecution and those of other Muslims (see below).

And in a joint submission to the UN Human Rights Committee for its 22-23 June consideration of Kazakhstan's record under the International Covenant on Civil and Political Rights (ICCPR), 12 Kazakh human rights organisations note that, among other violations, banning the exercise of freedom of religion and belief without state permission "represent a direct violation of the right to freedom of religion and Article 18 of the ICCPR". "This is linked to violations of other rights guaranteed by the ICCPR, in particular the right to freedom of expression and freedom to seek, receive and impart information (Article 19); the right to freedom of association (Article 22) and the right to freedom of peaceful assembly (Article 21)." The human rights defenders also note that "With rather dubious criteria being applied, terms such as 'traditional' and 'non-traditional' religious organisations, 'religious extremism' etc. are being introduced into the realm of law-related definitions" (see below).

Latest freedom of religion and belief prisoner of conscience

Another Sunni Muslim accused of membership of the Tabligh Jamaat movement, Murat Takaumov, was given a nine-month prison term in Kazakhstan's capital Astana on 2 June, Forum 18 has learnt. This brings to 31 the number of Muslims handed criminal sentences for their alleged involvement with the Muslim missionary movement since December 2014. Of these, 19 were given prison terms. The latest sentence comes as five more alleged Tabligh Jamaat members in Oskemen (Ust-Kamenogorsk) are under criminal investigation on the same charges of "extremism".

The National Security Committee (NSC) secret police initiated Takaumov's prosecution and used a spy to infiltrate the movement to gather evidence for his prosecution and those of other Muslims. Forum 18 was unable to reach NSC Investigator Senior Lieutenant Nurlan Belesov. A colleague told Forum 18 on 8 June that he was not in the office and put the phone down. Belesov's mobile phone went unanswered on 7 and 8 June.

Senior Lieutenant Belesov initiated the criminal prosecution of Takaumov, as well as of five Sunni Muslims sentenced as alleged Tabligh Jamaat members in Astana in February 2016 and of Seventh-day Adventist prisoner of conscience Yklas Kabduakasov, given a two-year prison term in December 2015 (see F18News 22 April 2016 http://www.forum18.org/archive.php?article_id=2170).

Forum 18 was also unable to reach Sanat Aktenberdy, a 28-year-old NSC "senior operational officer" in Astana who on Belesov's orders was – in the words of case documents seen by Forum 18 - "inserted into the ranks of members of the Tabligh Jamaat organisation using the methods of conduct imitating [their] criminal conduct". His testimony helped to convict Takaumov, according to case materials seen by Forum 18.

The man who answered Aktenberdy's mobile phone told Forum 18 on 8 June that he had recently acquired the phone and had no connection to anyone named Aktenberdy.

At least 26 individuals convicted for exercising the right to freedom of religion or belief (25 of them accused of Tabligh Jamaat membership, plus Adventist Kabduakasov) have been placed on a Finance Ministry Financial Monitoring Committee List of

individuals "connected with the financing of terrorism or extremism". Their bank accounts are frozen and any financial transactions are almost impossible. Separately, they are also being required to pay for the costs of "expert analyses" used to convict them (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

Missionary movement banned

Tabligh Jamaat was banned by an Astana court in 2013, just a year after an extensive study commissioned by the NSC secret police and the government's then Religious Affairs Committee concluded that the Muslim movement is not "extremist" or "terrorist" and that there was no reason to ban it (see F18News 28 March 2016 http://www.forum18.org/archive.php?article_id=2162).

"Socially-dangerous consequences"?

Takaumov – who is now 31 - runs his own law firm in Astana. In late 2015 he gave legal advice to the wives of two of the five Muslims sentenced as Tabligh Jamaat members in Astana in February 2016 (see F18News 28 March 2016 http://www.forum18.org/archive.php?article_id=2162).

The NSC secret police arrested Takaumov on 18 November 2015 on charges of membership of Tabligh Jamaat. At the request of NSC Investigator Belesov, Saryarka Court No. 2 repeatedly ordered his detention in the NSC Investigation Prison in Astana (see F18News 9 March 2016 http://www.forum18.org/archive.php?article_id=2156).

The 10-page indictment, seen by Forum 18, claimed that Takaumov had decided to study Islam himself from 2007 and had come into contact with Tabligh Jamaat members. From 2012 to 2015 he had spoken to others of his faith, "understanding the social danger of his criminal actions and the possibility of the emergence of socially-dangerous consequences in the form of a violent change of the constitutional set-up". The indictment claimed that Takaumov knew that the "true aim" of Tabligh Jamaat was allegedly the establishment of a Caliphate (Muslim-ruled territory), including in Kazakhstan

One "expert" and 28 witnesses were questioned and their testimony included in the case, including the five Sunni Muslim men convicted in Astana in February. One of these witnesses was NSC secret police officer Aktenberdy, whose mission to infiltrate the group had been approved by a special decision (see F18News 22 April 2016 http://www.forum18.org/archive.php?article_id=2170).

The initial hearing in Takaumov's trial at Astana's Saryarka District Court No. 2 was held on 24 March under Judge Umsyn Mukhangaliyeva. However, at the next hearing on 8 April she was abruptly replaced by Judge Birzhan Toregeldi. Numerous hearings followed.

Takaumov's nine month prison sentence

For the trial's final session on 2 June, Takaumov was brought into court in handcuffs and placed in the defendant's box behind the transparent plastic screen, noted Madi Bekmaganbetov of Radio Free Europe's Kazakh Service (RFE/RL), who was present in court. As on the previous day, the Judge ordered the journalist not to take photographs or make video or audio recordings.

Judge Toregeldi found Takaumov guilty under Criminal Code Article 405, Part 2. This punishes "participation in the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out" with a fine or up to two years' imprisonment.

Although Prosecutor Serik Ishchanov called for Takaumov to be jailed for one year, Judge Toregeldi sentenced him to nine months' imprisonment in an ordinary regime labour camp. The Judge claimed that "there is significant proof in the case" and ordered that discs and video recordings held by the NSC secret police are to be destroyed, Bekmaganbetov of RFE/RL noted.

Takaumov was also ordered to pay court costs of 31,608.22 Tenge (775 Norwegian Kroner, 85 Euros or 95 US Dollars). Case documents seen by Forum 18 note that this represents the cost of one of the "expert analyses" of secret recordings and transcripts of a religious meeting, as well as of a psychiatric examination that found Takaumov to be of sound mind.

Judge Toregeldi had not issued the written verdict by the end of the working day in Astana on 8 June, those close to the case told Forum 18.

Takaumov to appeal against "illegal" sentence

Takaumov had insisted on his innocence of any wrongdoing throughout the trial. "I don't agree with it," he told Bekmaganbetov of RFE/RL about the sentence as he was leaving the court room. "It is illegal."

Similarly, Takaumov's mother – who had attended all the hearings in the trial – told Bekmaganbetov that the verdict was "unjust". "The crimes he was accused of under the Criminal Code did not happen. How can it be? No evidence was heard."

Takaumov's lawyer, Serik Nurlybayev, who was not present in court for the verdict, told Bekmaganbetov later that his client would have to serve less than three months more as he has been in detention since November 2015. He claimed that Takaumov had received a mild sentence as he has four young children and has never been convicted before. He feared that any appeal might cause more harm for his client.

"Murat is not being prevented from praying or reading the Koran in the NSC Investigation Prison, where he remains today," one of Takaumov's relatives told Forum 18 on 31 May. His wife Aynur and four young children – none of whom attended the final two days of hearings – last saw him on 26 February, relatives added.

Takaumov's wife Aynur told Forum 18 in March that neither she nor her husband are Tabligh Jamaat members. "We pray the namaz and maintain relations with everyone," she told Forum 18. "We don't divide people into Muslims or non-Muslims. We try not to make divisions even among Muslims" (see F18News 28 March 2016 http://www.forum18.org/archive.php?article_id=2162).

The address of the NSC Investigation prison where Takaumov has been held since November 2015:

SIZO KNB g. Astana

010003 Astana

Ul. Shyntas 2

Kazakhstan

Oskemen raids, new criminal case

East Kazakhstan Regional NSC secret police officers raided homes in Oskemen on 16 May as part of an investigation in a criminal case against five local residents, local media cited the Regional Prosecutor's Office as declaring on 23 May. Officers seized "extremist" religious literature and other materials which they claim indicated that the men had a possible connection to the banned Tabligh Jamaat missionary movement.

The men are being investigated under Criminal Code Article 405, Part 2. The five men had to sign statements that they would not leave Oskemen without the investigator's permission.

A spokesperson for the Regional Prosecutor's Office told Forum 18 from Oskemen on 6 June that the criminal investigation is in the hands of the NSC secret police and referred Forum 18 to them. The official noted that the criminal case did not appear to be listed in the electronic database even though all cases – even when they are at the investigation stage – should be listed.

Baurzhan, whom the duty officer at the Regional NSC secret police identified as the officer who oversees criminal cases, told Forum 18 on 8 June that "the secrecy of the investigation" prevents giving the names of the suspects, when the criminal case was opened and why, and who the NSC investigator on the case is.

Human rights defenders' joint submission to UN Human Rights Committee

A group of 12 of Kazakhstan's human rights organisations – including the Kazakhstan International Bureau for Human Rights and the Rule of Law, the Legal Policy Research Centre and Adil Soz (Free Word) – note that Kazakhstan directly violates the International Covenant on Civil and Political Rights (ICCPR) in relation to Article 18 ("Freedom of thought, conscience and religion") of the ICCPR. They note this in a joint examination of the country's overall human rights record, submitted jointly to the United Nations Human Rights Committee in May. The Committee is due to consider Kazakhstan's record under the ICCPR in Geneva on 22 and 23 June (http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KAZ/INT_CCPR_CSS_KAZ_24096_E.pdf).

The human rights organisations note that "In recent years, dozens of members of religious organisations worshipping different schools of Islam, as well as those perceived to be members of so-called 'non-conventional' religions risked being charged with extremism and terrorism, as well as inciting religious hatred and enmity." They also express concern at the declaration of religious organisations as "extremist".

"Direct violation"

The 12 Kazakh human rights organisations note that, among other violations, banning the exercise of freedom of religion and belief without state permission "represent a direct violation of the right to freedom of religion and Article 18 of the ICCPR". "This is linked to violations of other rights guaranteed by the ICCPR, in particular the right to freedom of expression and freedom to seek, receive and impart information (Article 19); the right to freedom of association (Article 22) and the right to freedom of peaceful assembly (Article 21)."

Concepts of "extremism" and "religious hatred" "not clearly defined"

The human rights defenders also note that "With rather dubious criteria being applied, terms such as 'traditional' and 'non-traditional' religious organisations, 'religious extremism' etc. are being introduced into the realm of law-related definitions".

The organisations complained that the concepts of "extremism" and "religious hatred or enmity" applied by the authorities "are not clearly defined in the law and do not comply with the principle of legal certainty and predictability". They express concern about the government's list of illegal extremist organisations, including religious ones, "based on which believers are arraigned on a criminal charge, not for any extremist actions, but for allegedly belonging to such organisations".

"Almost all criminal proceedings on charges of extremism are held behind closed doors, including the announcement of the judgment," they note with concern. "As a result, it is difficult to assess the soundness and relevance of the charges, the justification of the verdicts, and whether the legal proceedings were in line with international fair trial standards."

Additional punishments

The organisations also note that in some cases, additional punishments are imposed on religious leaders prohibiting them to exercise freedom of religion and belief for several years. This is "a direct restriction of the right to freedom of conscience and religion", they insist (see http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/KAZ/INT_CCPR_CSS_KAZ_24096_E.pdf).

One example of the kind of case that concerns the human rights defenders is that of Sunni Muslim Saken Tulbayev. When he was convicted of Tabligh Jamaat membership in Almaty in July 2015, the judge not only sentenced him to 4 years and 8 months' imprisonment but also banned him from exercising freedom of religion or belief for three years after his release (see F18News 8 July 2015 http://www.forum18.org/archive.php?article_id=2078). (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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY