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KAZAKHSTAN: Bank accounts blocked, "expert analysis" costs

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At least 26 people convicted of exercising their freedom of religion and belief have had bank accounts blocked by the government without being informed of this, and without additional legal process. They are also required to pay for "expert analyses" used to convict them.

At least 26 people criminally convicted of exercising their right to freedom of religion and belief are included in a Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". Of these, 25 are Muslims convicted of Tabligh Jamaat membership and one is a Christian prisoner of conscience. A Financial Monitoring Committee official said that individuals are not told if they are on the Financial Monitoring List. "The only way they would know is when they go to the bank and find their account is blocked and the bank then tells them." One human rights defender asked if "anyone who tries to help those prisoners of conscience .. might themselves be accused of financing terrorism?"

Many of the 32 individuals – 31 Muslim, 1 Christian - given criminal convictions for exercising their right to freedom of religion or belief have also been required to pay for "expert analyses" used to convict them. And the government is using centres to "rehabilitate" prisoners of conscience jailed for exercising their human rights (see below).

Bank accounts blocked

At least 26 individuals who have received criminal convictions to punish them for exercising the right to freedom of religion or belief are included in the Finance Ministry's Financial Monitoring Committee's list of 583 individuals "connected with the financing of terrorism or extremism" (as of 3 June). Of these, 25 are Muslims convicted of Tabligh Jamaat membership (one of whom appears twice with slightly different spellings). The other is Seventh-day Adventist prisoner of conscience Yklas Kabduakasov.

This arbitrary government blocking of bank accounts is being done without victims being informed of this, and without additional due legal process.

Many of the 26 individuals on the Financial Monitoring List were given prison terms. Some though are serving "restricted freedom" sentences, where they live at home under restrictions. These include being banned from leaving their home town without permission, and being banned from visiting cafés, restaurants, bars, night clubs and discos.

All 25 Muslims were convicted under Criminal Code Article 405 (or its equivalent in the old Criminal Code). One, prisoner of conscience Khalambakhi Khalym, was also convicted under Criminal Code Article 174, Part 1 which punishes "incitement of social, national, clan, racial, or religious hatred or antagonism" (see F18News 25 February 2016 http://www.forum18.org/archive.php?article_id=2153).

Prisoner of conscience Kabduakasov was sentenced to two years' imprisonment in December 2015 under Criminal Code Article 174, Part 1 for comments the KNB secret police claimed encouraged "religious hatred" when speaking to others of his faith (see F18News 29 December 2015 http://forum18.org/archive.php?article_id=2136).

All these individuals denied wrongdoing in court and insist they were simply exercising the right to freedom of religion or belief.

Close relatives of two of the prisoners of conscience said they were unaware that the prisoners had been added to the Financial Monitoring List. "Nothing was said about this in the verdict," one relative told Forum 18 on 7 June. Only after Forum 18's approach did the relative discover that the accounts of the prisoner of conscience had been blocked.

Article 12, Part 4, Section 3 of the 2009 Law on Countering the Legalisation (Laundering) of Income Received through Crime, and the Financing of Terrorism provides the basis for individuals convicted of "extremist and/or terrorist crimes" to be added to the Financial Monitoring List. All financial transactions by an individual on the List are under tight restrictions. The same Article allows family members who live in the same household without any separate source of income to apply for access to funds for subsistence.

"The only way they would know is when they go to the bank"

An official of the Financial Monitoring Committee – who would not give his name – said that there is "no way" individuals would know if they have been placed on the Financial Monitoring List. "We don't tell them," the official told Forum 18 from Astana on 8 June. "The only way they would know is when they go to the bank and find their account is blocked and the bank then tells them."

The official added that the Committee simply compiles and maintains the Financial Monitoring List on the basis of information from the Interior Ministry, Prosecutor's Office, KNB secret police and Foreign Ministry. The official added that individuals are removed from the Financial Monitoring List at the request of any of these institutions, although individuals can themselves appeal to be removed if they think they should not be on the List.

Told that Forum 18 had found 26 individuals on the Financial Monitoring List who had been punished for exercising the right to freedom of religion or belief, the official said that they do not track the reasons why individuals are on the List.

Helping prisoners of conscience a crime?

One human rights defender, who wished to remain anonymous for fear of state reprisals, expressed concern about anyone who tries to help those prisoners of conscience who have been added to the Financial Monitoring Committee's List. "Does this mean that anyone who gives financial support to those who've been imprisoned might themselves be accused of financing terrorism?" the individual commented to Forum 18 on 9 June.

Victims to pay prosecution case costs

Many of the 32 individuals – 31 Muslim, 1 Christian - given criminal convictions to punish them for exercising the right to freedom of religion or belief have been required to pay fees for "expert" analyses (for example of confiscated religious literature) used to convict them. Such fees to cover prosecution costs are set out in court verdicts. If the individuals fail to pay them, court bailiffs can bring proceedings to recover the funds.

"Expert analyses" are routinely used to justify a range of state violations of freedom of religion and belief (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

In the cases of the 32 individuals convicted since December 2014 for exercising the right to freedom of religion or belief, such "expert" analyses have been commissioned by KNB secret police prosecutors and used to convict them. They have not been commissioned by defendants, even though they often end up paying for them.

Adventist prisoner of conscience Kabduakasov owes 149,742.52 Tenge (then about 17,000 Norwegian Kroner, 1,800 Euros or 2,000 US Dollars) in prosecution case costs relating to his 2015 trial (see F18News 8 December 2015 http://www.forum18.org/archive.php?article_id=2130).

The costs partially relate to a September 2015 "complex judicial psychological/philological expert analysis" of 47 books, discs and flash drives seized from Kabduakasov in raids. The analysis was commissioned by the KNB secret police and conducted by the Justice Ministry's Central Institute of Judicial Expert Analysis in Astana.

The 29-page analysis concluded that some of the items (including four Christian books subsequently banned by a court) "contain expressions of the exclusivity and superiority of Christianity over Islam". Some also "contain features of inter-ethnic and religious hatred and discord, as well as expressions of the superiority of the Christian religion and the inadequacy of the Islamic religion". The four books subsequently banned also "contain propaganda for the subversion of state security, inter-confessional and inter-ethnic accord and social/political stability", the analysis claimed (see F18News 16 March 2016 http://www.forum18.org/archive.php?article_id=2158).

The freedom to make claims about the relative merits or demerits of religious or non-religious views is a central part of the internationally-recognised right to freedom of religion and belief. Making such claims cannot of itself be regarded as inciting discord, hatred or enmity.

Prisoner of conscience Kabduakasov rejected the findings of the so-called "expert" analysis.

Recovering costs even from frozen bank accounts

Court bailiffs in Astana launched proceedings to recover the costs from Kabduakasov on 24 February, according to the Justice Ministry's debtors' register.

One of two Muslim prisoners of conscience sentenced in Almaty Region in February - Vakha Surkhayev - owes 89,724 Tenge (about 2,200 Norwegian Kroner, 240 Euros or 270 US Dollars) in prosecution case costs relating to their trial (see F18News 22

April 2016 http://www.forum18.org/archive.php?article_id=2170). Court bailiffs in Almaty launched proceedings to recover the money on 20 May, according to the Justice Ministry's debtors' register.

The five Muslim prisoners of conscience sentenced in Astana in 2016 - Khalym, Erbolat Omarbekov Bolatbek Kozhageldinov, Nurzhan Nuradilov and Kubaidolla Tyulyubayev - each owe 26,240 Tenge (then about 650 Norwegian Kroner, 70 Euros or 75 US Dollars) in prosecution case costs relating to their trial (see F18News 9 March 2016 http://www.forum18.org/archive.php?article_id=2156). Court bailiffs in Astana launched proceedings to recover the money on 23 May, according to the Justice Ministry's debtors' register.

"One of Tyulyubayev's relatives has taken the paperwork to pay the outstanding amount," the court bailiffs office told Forum 18 from Astana on 10 June. "We have sent requests to the prisons where the others are being held to find out how they are planning to pay. If they are working in the labour camp the money can be taken from their earnings. If they are not working, we can recover it from their accounts or by seizing property."

Told that the bank accounts of all five prisoners of conscience have been frozen because they have been placed on the Financial Monitoring Committee's list of individuals "connected with the financing of terrorism or extremism", the official noted that court bailiffs are able to recover money from frozen accounts.

In some cases court bailiffs appear to abandon attempts to recover such court fees. Muslim prisoner of conscience Orazbek Apakashev – sentenced in Temirtau in September 2015 – was assigned a prosecution cost of 311,781 Tenge (then about 33,000 Norwegian Kroner, 31,000 Euros or 3,800 US Dollars) to cover the cost of an "expert" analysis (see F18News 7 October 2015 http://www.forum18.org/archive.php?article_id=2108). Although court bailiffs in Temirtau launched proceedings to recover the money on 13 November 2015, they were "returned without being executed" the same day.

Prisoner laments "mistakes"?

Officials have frequently spoken of working to "rehabilitate" prisoners convicted of "extremism"-related crimes. This appears to include not only those who have committed crimes but prisoners of conscience who have been jailed for exercising their human rights. State-funded "anti-sect" centres are used to encourage hostility to people exercising freedom of religion or belief and to prepare the ground for laws violating the state's human rights obligations (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

On 28 March, the website of the Study and Analysis Centre of Almaty's Religious Affairs Department published an article it claimed was written by prisoner of conscience Mamurzhhan Turashov from labour camp ICh-167/3 in Shymkent in which he allegedly laments his "mistakes".

Sairam District Court, South Kazakhstan Region sentenced Turashov in December 2014 on charges of Tabligh Jamaat membership to three years' imprisonment under Article 337-1, Part 1 of the old Criminal Code (equivalent of Article 405 of the current Criminal Code). His "crime" was to distributing religious literature that had not been censored by the state at a mosque or prayer room he had built in his village, as well as membership of Tabligh Jamaat knowing it had been banned (see F18News 12 December 2014 http://www.forum18.org/archive.php?article_id=2023). Kazakhstan imposes compulsory censorship of all religious texts and objects, banning all Muslim literature which is not Sunni Hanafi, as well as severely restricting where any religious literature or objects may be sold or distributed (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

The article notes that prisoner of conscience Turashov joined the Tabligh Jamaat movement in 2010 knowing little of Islam and continued in it despite repeated warnings from the KNB secret police. Once in prison, the article said he studied Islam with books from the prison library and help from a theologian. "I am back on the right track thanks to the theologian Ikram Aytayev and other imams," the article states.

One of the tasks of the Study and Analysis Centre, according to its website, is "Giving psychological help to rehabilitate victims of destructive religious movements". It does not identify any specific movements it has in mind.

An official of the Study and Analysis Centre, who gave his name only as Serik, was unable to say if prisoner of conscience Turashov had written the article of his own free will or not, how the Centre had received the article and who from, and whether Turashov is still imprisoned. "The colleague who posted this on the website is not in the office today," Serik told Forum 18 on 10 June. "He says he would have to look in his computer to find the answers." Serik noted that Turashov had not visited the Centre.

"Go to official imams and mosques"

Another organisation used by the state is the Ansar Centre in the city of Aktobe. Its Director Askar Sabdin says he has worked with Tabligh Jamaat adherents in the past. "In about 2014 we worked with maybe seven or eight of them," he told Forum 18 from Aktobe on 8 June. "They were brought here more than once, as were others who had been associated with the movement earlier. We told

them that they should not participate in movements that had been banned by the courts but instead go to official imams and mosques."

The government has given the state-backed Muslim Board a monopoly over all Islamic activity, banning all non-Sunni Hanafi and all non-state controlled imams and mosques, even though such a monopoly is not enshrined in law (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Sabdin could not recall which state officials had brought the Tabligh Jamaat adherents to his office. He recalls that they might have been in pre-trial detention, in which case they would have been brought by prison officials.

Sabdin insisted that his centre is independent of the state and does not receive state funding. "We're backed by rich businesspeople," he told Forum 18.

"Crimes"?

Although insisting that Tabligh Jamaat adherents had committed "crimes" – he vaguely recalled a murder in Aktobe Region in 2011 or 2012 he claimed was linked to someone connected with the movement – Sabdin said "Salafi" Muslims were more of a threat. "Crimes by Tabligh Jamaat adherents are insignificant compared to crimes by Salafis," he told Forum 18. He pointed in particular to the terrorist attacks in the city on 5 June which the state has blamed on "Salafis".

The authorities often associate the victims of freedom of religion or belief violations with words with negative overtones. For example, officials defended the 2011 laws (including the latest Religion Law) restricting freedom of religion or belief as being needed as counter-terrorism measures. Muslim Board and state officials have claimed to Forum 18 that allowing independent mosques to exist "will breed terrorists". But officials have not produced proof for these assertions (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Kazakhstan shows little sign of understanding that genuine security depends on genuine respect for human rights, despite this explicit link being made in Organisation for Security and Co-operation in Europe (OSCE) commitments and other international human rights obligations the authorities have freely undertaken (see Forum 18's compilation of OSCE freedom of religion or belief commitments http://www.forum18.org/Archive.php?article_id=1351). (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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