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The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

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KAZAKHSTAN: Eight Muslim prisoners of conscience sentenced

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

Kuanysh Bashpayev was jailed for four and a half years at a closed trial in Pavlodar for "inciting religious hatred" for speaking about Islam. Seven Muslims were jailed in South Kazakhstan for up to four years for alleged membership of Tabligh Jamaat missionary movement.

On 7 April, at the end of a closed trial, a court in the north-eastern city of Pavlodar sentenced Sunni Muslim Kuanysh Bashpayev to four and a half years' imprisonment to punish him for talks he gave on his faith between 2008 and 2011. He had been arrested in October 2016 on his return to Kazakhstan from Saudi Arabia.

The 30-year-old Bashpayev – who is married with six children – denied inciting religious hatred and will appeal against his conviction, his lawyer told Forum 18. One of the two Prosecutor's Office officials who led the case in court refused to say what harm Bashpayev might have done to anyone else (see below).

A growing number of Muslims who have studied their faith in Saudi Arabia – like Bashpayev – have been arrested and are awaiting trial. Among those is Nariman Seytzhanov, who has been held in pre-trial detention in Kokshetau in Akmola Region since 15 January (see F18News 18 April 2017 http://www.forum18.org/archive.php?article_id=2273).

And in a separate case, a court in South Kazakhstan Region imprisoned seven Sunni Muslims for between one and four years on 4 April. They were also banned from conducting certain activities – which the court would not reveal – after their release. All seven were convicted for alleged membership of the Muslim missionary movement Tabligh Jamaat, which the Kazakh authorities banned in 2013.

Sairam District Prosecutor Orazali Abdramanov – who led the prosecution of the seven men in court – denied that they had been punished for their faith. He refused to say who – if anyone – the men might have harmed (see below).

One of the seven men had been given an administrative fine in August 2016 to punish him for exercising the right to freedom of religion or belief (see below).

Seven sentenced Sunni Muslims

The seven men sentenced in Sairam in South Kazakhstan Region under Criminal Code Article 405 are:

1) Bakhytzhan Esimkhanovich Baimusayev, born 15 November 1963, 4 years' imprisonment, plus four-year ban on activities.

2) Abduvakhab Salibekovich Shakirov, born 21 December 1962, 4 years' imprisonment, plus four-year ban on activities.

3) Furkhat Farkhadovich Abatayev, born 27 January 1965, 1 year imprisonment, plus two-year ban on activities.

4) Abdivasit Abdikakharovich Abdirazakov, born 28 August 1965, 1 year imprisonment, plus two-year ban on activities.

5) Murodzhon Abdivakhabovich Abdullayev, born 21 January 1969, 1 year imprisonment, plus two-year ban on activities.

6) Zhenisbek Erakhmetovich Manbetov; born 16 July 1983, 1 year imprisonment, plus two-year ban on activities.

7) Meirambek Amalbekuli Sarymsak; born 8 March 1965, 1 year imprisonment, plus two-year ban on activities.

All seven men are married with children.

54 Tabligh Jamaat convictions since December 2014

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A court in the capital Astana banned Tabligh Jamaat in Kazakhstan as "extremist" in February 2013. Until the movement was banned, it used to send members on short-term missions to other towns and villages where they slept in mosques and addressed local Muslims, both door to door and in the mosque, a close observer of the movement in Central Asia told Forum 18. Male adherents are often identified by their beards and wearing of South Asian clothing. If Muslims are thought by the authorities to agree with some of Tabligh Jamaat's teachings or practices, possess religious books often used in the movement, or meet others close to the movement, this can be enough to trigger a criminal prosecution (see F18News 12 December 2014 http://www.forum18.org/archive.php?article_id=2023).

The new sentences in Sairam bring to 54 the number of alleged Tabligh Jamaat adherents (all of them Kazakh citizens) known to have been given criminal convictions since December 2014. Of these, 40 were given prison terms while 14 were given restricted freedom sentences. In the most recent known previous sentences, five Sunni Muslims in Almaty Region were sentenced in late December 2016 to between 18 months' and three years' imprisonment (see F18News 9 January 2017 http://www.forum18.org/archive.php?article_id=2245).

Organising, participating in a "banned religious association"

Like the previous 47 convicted Sunni Muslims, all seven Sairam defendants were convicted under Criminal Code Article 405 (or its equivalent in the old Criminal Code).

Article 405, Part 1 punishes "organising 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 six years' imprisonment.

Article 405, Part 2 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.

Two of the 54 Sunni Muslims - Saken Tulbayev and Khalambakhi Khalym - were also convicted and imprisoned under the broadly-framed Criminal Code Article 174, Part 1. This punishes "incitement of social, national, clan, racial, or religious discord" with imprisonment or restricted freedom for between two and seven years.

As well as Tulbayev, Khalym and the newly-sentenced Bashpayev, Seventh-day Adventist prisoner of conscience Yklas Kabduakasov is among many other individuals serving a prison sentence under Article 174, Part 1. Jehovah's Witness Teymur Akhmedov is currently on trial in the capital Astana under Article 174, Part 2, which punishes such incitement by groups of people (see F18News 3 April 2017 http://www.forum18.org/archive.php?article_id=2269). All reject the accusations.

The number of such prosecutions – all initiated by the National Security Committee (NSC) secret police or with its close involvement - appears to be growing (see F18News 7 March 2017 http://www.forum18.org/archive.php?article_id=2262).

Bank accounts likely to be blocked

All eight newly-sentenced prisoners of conscience – Bashpayev in Pavlodar and the seven in Sairam - are likely to be added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism", thus blocking any bank accounts they might have, without any additional due legal process.

As individuals are not told when they are added to the List, they normally only find out they have been added when they or relatives attempt to withdraw money from their bank (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

Pavlodar: "Inciting religious hatred"?

Bashpayev gained a first degree and then began studies for a Master's degree in Islamic theology at Medina University in Saudi Arabia. The Saudi authorities detained him from December 2015 to autumn 2016 at the request of Kazakhstan's authorities. They freed him with no charge and apologised to him, his lawyer Bauyrzhan Azanov told Forum 18 on 10 April 2017.

Bashpayev returned from Saudi Arabia to Kazakhstan on 12 October 2016 on what he intended to be a short visit. However, he was arrested as soon as his flight landed at Astana Airport and taken to a prison in Pavlodar, Azanov added.

Captain Gabit Bakirov of Pavlodar Region NSC secret police had already launched a case against Bashpayev under Criminal Code Article 174, Part 1 ("incitement of social, national, clan, racial, or religious discord").

Captain Bakirov launched the case after officers found recordings of Bashpayev's talks on Islam on the Russian social network VKontakte on 7 April 2016, according to the 24-page indictment seen by Forum 18. Further online talks were found on 22 May 2016. "Expert analyses" of 15 April 2016 and 20 June 2016 claim to have found Bashpayev inciting religious hatred in the talks.

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In some of his remarks, Bashpayev criticised the state-controlled Muslim Board. Colonel Bekezhan Kalkomanov of Pavlodar NSC claimed to Forum 18 in January that he had "insulted the religious feelings of Kazakhstan's traditional Muslims". (see F18News 6 February 2017 http://www.forum18.org/archive.php?article_id=2253).

Bashpayev said the recordings of the talks, which he gave in a mosque in Ekibastuz in 2008 and in a cafe in Almaty in 2011, were later placed online without his knowledge. He denied inciting hatred of any sort.

One of those who claimed in the investigation that Bashpayev had incited hatred was Asiya Abitova, a religious studies specialist at the state-financed Centre for Analysis and Development of Inter-confessional Relations in Pavlodar. She refused to answer any of Forum 18's questions about her analysis (see F18News 3 April 2017 http://www.forum18.org/archive.php?article_id=2269).

Dulat Beisembyaev, the lead Prosecutor's Office official at the trial, refused to explain who – if anyone – had suffered from Bashpayev's exercise of his right to freedom of religion or belief. "I can't answer any questions by telephone," he told Forum 18 on 10 April. He then put the phone down.

Pavlodar: Closed trial

Bashpayev's closed trial began under Judge Kayirbek Yelemesov at Pavlodar City Court No. 2 with a preliminary hearing on 14 February. The full trial began on 6 March. The prosecution case was presented by two officials of Pavlodar Regional Prosecutor's Office, led by Beisembayev.

The Judge ordered the trial closed, claiming that this was at the request of a "victim", the prominent Almaty Muslim Board imam Ersin Amire. The Judge's assistant refused to tell Forum 18 in what way Amire needed protecting (see F18News 3 April 2017 http://www.forum18.org/archive.php?article_id=2269).

Bashpayev's lawyer Azanov described the decision to order the trial closed as "a violation of the law". He noted that only the Judge, two prosecutors, Bashpayev and himself as his lawyer were present, apart from witnesses questioned.

The acting head of the Pavlodar branch of the Kazakhstan International Bureau for Human Rights and Rule of Law, Ruslan Issenov, had been intending to observe Bashpayev's trial. "The Judge read my appeal to be allowed into the trial and rejected it," Issenov told Forum 18 from Pavlodar in early March. "I asked for a copy of the ruling declaring the trial closed, but he replied that a ruling is an internal document and cannot be handed out" (see F18News 7 March 2017 http://www.forum18.org/archive.php?article_id=2262).

Bashpayev was brought to court for each hearing by four masked and armed guards. "Observers from the Kazakhstan International Bureau for Human Rights and the Rule of Law's branch in Pavlodar were denied entry, as were Bashpayev's relatives," his lawyer, Azanov, told Forum 18. "His mother appealed to the Judge to let her even see her son, but he refused."

Azanov pointed out to the court that his client's alleged "crimes" had taken place under the old Criminal Code, which had been replaced in January 2015. The case was then heard under Article 164, Part 1 ("incitement of social, national, clan, racial, or religious hatred or antagonism") of the then Criminal Code in force at that time. Although the wording of the crime was almost the same as the current Article 174, Part 1, the maximum Article 164, Part 1 punishment was – between 2002 and 2011 – five years' imprisonment.

Azanov commissioned a linguistic analysis of Bashpayev's words from the Almaty-based free speech organisation Adil Soz (Free Word). The analysis – completed on 22 March – "found not one sign of incitement to religious discord in Bashpayev's words, not one".

Religious studies specialist Abitova, who had given testimony against Bashpayev before the trial, also appeared in court as a prosecution witness. However, Azanov dismissed her and her testimony as "ill-informed about Islam".

Azanov sought to have the NSC investigator in the case questioned in court, as well as other specialists who had prepared "expert analyses" on Bashpayev's remarks. He also sought the right to question witnesses for the defence in court. "In all I lodged 20 different appeals during the course of the trial," Azanov told Forum 18. "I referred to an individual's rights under the International Covenant on Civil and Political Rights. The Judge rejected all of them."

Pavlodar: Prison sentence

On 7 April, the final day of the trial, Judge Yelemesov found Bashpayev guilty under the old Article 164, Part 1. He sentenced him to four and a half years' imprisonment in a general regime labour camp, the lawyer Azanov told Forum 18. In his oral presentation of the verdict, the Judge mentioned no other restrictions on Bashpayev's activity after he completes his sentence, Azanov added.

"The Judge read out the verdict at the end of the trial but has not yet provided it in writing," Azanov told Forum 18. He added that

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the written verdict is expected by 14 April. Bashpayev intends to appeal against his conviction to Pavlodar Regional Court. He is also considering lodging a complaint to the United Nations Human Rights Committee in Geneva.

Until any appeal is heard, Bashpayev is likely to remain in Pavlodar's Investigation Prison.

Only on 11 April – after the trial was over – did Judge Yelemesov grant Bashpayev's mother the right to visit her son in prison, Azanov noted. She had sought such a meeting for more than four months.

Sairam: Secret police launch investigation

Meanwhile, in South Kazakhstan Region, NSC secret police officers detained the seven Muslim men in November 2016. Officers searched their homes and claimed to find "banned" religious literature in Uzbek and Russian, as well as audio and video recordings.

The NSC opened cases against the seven under Criminal Code Article 405. It identified two of the men, Bakhytzhan Baimusayev and Abduvakhab Shakirov, as leaders. They had to lodge money while the investigation continued to ensure they did not flee. None of the seven was held in pre-trial detention.

The seven men insisted during the investigation – and later during their trial – that they are simply Muslims and not members of Tabligh Jamaat.

Sairam: Court hands down prison terms

On 9 March the case against the seven men reached Sairam District Court, where it was assigned to Judge Saltanat Kabylova, according to court records. The prosecution case was led in court by Sairam District Prosecutor Orazali Abdramanov.

After hearings on 16, 28 and 29 March, the Judge found all seven men guilty on 4 April. All seven men had denied any guilt.

Judge Kabylova took an hour and a half to read the verdict at the end of the trial, Kazinform news agency noted on 4 April.

The two men identified as leaders - 53-year-old Baimusayev and 54-year-old Shakirov – were each sentenced to four years' imprisonment in an ordinary regime labour camp under Criminal Code Article 405, Part 1, the court chancellery told Forum 18 on 7 April. Both men had been on bail in the run-up to the trial.

The Judge also banned Baimusayev and Shakirov from conducting certain activities for four years after the end of their prison terms. The court chancellery did not specify what activity they would be banned from conducting.

The other five - 52-year-old Furkhat Abatayev, 51-year-old Abdivasit Abdirazakov, 48-year-old Murodzhon Abdullayev, 33-year-old Zhenisbek Manbetov and 52-year-old Meirambek Sarymsak - were each convicted under Article 405, Part 2. Each was sentenced to one year's imprisonment, to be served in a work camp.

The Judge similarly banned the five men from conducting certain activities for two years after the end of their prison terms. The court chancellery did not specify what activity they would be banned from conducting.

District Prosecutor Abdramanov insisted that the seven men "had not been punished because of their faith". "They conducted propaganda for a religious organisation that has been banned," he told Forum 18 on 7 April. Abdramanov acknowledged that the men had not killed anyone or incited the killing of anyone, but refused to say in what way the men's exercise of the right to freedom of religion or belief had – if at all - violated the human rights of others. "I won't answer your questions," he said, before putting the phone down.

Sairam: Punished for literature, meetings

The seven men are alleged to have joined the Tabligh Jamaat movement in the 2000s. "The leader of the group and his assistant studied the Tabligh Jamaat movement deeply and travelled to study in India and Pakistan," Judge Kabylova told journalists after the hearing. "Then they perfected their knowledge over four months in Bangladesh, which is considered the headquarters of this destructive movement."

Judge Kabylova added that the men forged links with Tabligh Jamaat in neighbouring Kyrgyzstan and adopted their practices. "From Kyrgyzstan they imported banned literature and conducted agitation in Sairam District. They conducted propaganda for the destructive movement among villagers in Karabulak and Karasu who had gathered in prayer rooms and mosques. Later they created a group – that is a jamaat [group] – and conducted agitation at home."

The two apparent leaders, Baimusayev and Shakirov, also travelled to other regions of Kazakhstan. The other five were accused of listening to sermons and distributing religious books.

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"This is all slander," Otyrar.kz, a Shymkent news site, quoted the men as declaring in their final address to the court. "We're not terrorists and we're not members of any movements. We're normal Muslims."

All seven men were arrested in the courtroom after the sentences were handed down.

Sairam: Earlier punishment

The same Sairam District Court had earlier punished one of the seven sentenced Muslims, Manbetov, for exercising freedom of religion or belief. Police accused him on 14 May 2016 of maintaining a prayer room linked to the Tabligh Jamaat movement in his home village of Karabulak of Sairam District. The record of an offence was prepared against him on 12 July 2016.

On 3 August 2016, Judge Saparaly Kurbanov of Sairam District Court found Manbetov guilty of violating Administrative Code Article 490, Part 1, Point 1. This punishes "violation of procedures established in law for conducting rites, ceremonies and meetings" with a fine for individuals of 50 Monthly Financial Indicators (MFIs). This represents about a month's average wage for those in work.

Judge Kurbanov fined Manbetov the prescribed 50 MFIs, 106,050 Tenge (2,600 Norwegian Kroner, 280 Euros or 310 US Dollars), according to the decision seen by Forum 18. He also banned him from conducting unspecified activities for three months. Manbetov did not appeal against the fine to South Kazakhstan Regional Court.

Because Manbetov failed to pay the fine, court bailiffs launched proceedings to recover the funds on 7 November 2016, according to Justice Ministry records. (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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