

13 July 2017

KAZAKHSTAN: Another jail term, another trial imminent

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

Satymzhan Azatov was jailed for four years eight months for inciting religious discord and promoting terrorism, which he denied. He is the fourth Muslim who studied in Saudi Arabia convicted in 2017. The trial of Imam Abdukhalil Abduzhabbarov, punished in Investigation Prison for observing Ramadan, is imminent.

The last of four Sunni Muslims who had studied their faith at a Saudi Arabian university has been jailed. On 10 July a court in Kazakhstan's capital Astana sentenced Satymzhan Azatov to a four year eight month prison term. Two days later a criminal case against Sunni Muslim Imam Abdukhalil Abduzhabbarov – who lived and worked in Saudi Arabia for ten years and was arrested in February on his return to Kazakhstan - reached Oral (Uralsk) City Court in West Kazakhstan Region. His trial is likely to begin soon.

The 27-year-old Azatov was convicted on charges of inciting religious discord and promoting terrorism, charges he denied (see below).

However, prosecutors have withdrawn charges of promoting terrorism against 42-year-old Imam Abduzhabbarov and he now faces charges only of "inciting religious discord", which he denies (see below).

Imam Abduzhabbarov spent at least ten days in the Investigation Prison punishment cell in late June for praying and fasting in the Muslim holy month of Ramadan, which ended on 24 June. While in the punishment cell he was given only black bread and water, and had to stand. The prison head refused to comment to Forum 18 (see below).

The conviction of Azatov in Astana brings to 19 the number of individuals known to have been given criminal convictions in Kazakhstan so far in 2017 to punish them for exercising the right to freedom of religion or belief. Of these, 17 were Sunni Muslims and 2 Jehovah's Witnesses. Of the 19 (all of them men), 17 received prison terms and 2 received restricted freedom sentences, where they live at home under restrictions (see F18News 30 June 2017 http://www.forum18.org/archive.php?article_id=2292).

Forum 18 has been unable to find out if the Judge also banned Azatov from exercising freedom of religion or belief after his prison term. This is a frequent additional punishment, though it remains unclear how it will be implemented. He – and Imam Abduzhabbarov if he is convicted - are also likely to have their bank accounts frozen (see below).

Criminal charges

The broadly-framed Criminal Code Article 174 is widely used to punish those the government does not like. It punishes "Incitement of social, national, clan, racial, or religious discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity, committed publicly or with the use of mass media or information and communication networks, as well as by production or distribution of literature or other information media, promoting social, national, clan, racial, or religious discord".

Kazakh and international human rights defenders, including the United Nations (UN) Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association and the UN Human Rights Committee, have strongly criticised Criminal Code Article 174 and its wide application (see F18News 2 February 2017 http://www.forum18.org/archive.php?article_id=2252).

Criminal Code Article 174, Part 1 punishes these actions committed by individuals. If convicted, they face two to seven years imprisonment, or two to seven years restricted freedom. Typically, during sentences of restricted freedom individuals live at home, but are not able to leave their town or city without seeking permission. They are often also banned from visiting restaurants, cafes or places of public entertainment.

Part 2 punishes these actions "committed by a group of persons, a group with prior planning, repeatedly, with violence or threat of violence, or by an official, or by the leader of a public association". If convicted they face five to 10 years' imprisonment, "with deprivation of the right to hold specified positions or to engage in specified activity for up to three years".

Azatov – and, if convicted, Imam Abduzhabbarov - are likely to be added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". All known prisoners of conscience convicted under Criminal Code Article 174 have been added to this List, thus freezing any bank accounts they may 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).

Criminal Code Article 256 ("Propaganda of terrorism or public calls to commit terrorism"), which includes the production, storage for distribution or distribution of [unspecified in the Article] specified materials, carries a punishment of five to nine years' imprisonment plus confiscation of property. If committed by an individual using a state or non-state official position, or with the use of the mass media or other communication networks, or with foreign support, or in a group, the punishment is seven to 12 years' imprisonment with confiscation of property.

Astana: Nearly five-year prison term

An Astana court jailed Sunni Muslim Satymzhan Bagytzhanuli Azatov (born 17 September 1989) on the afternoon of 10 July. Judge Bolat Pazylov of Saryarka District Court No. 2 found him guilty of violating Criminal Code Article 174, Part 1 and Article 256, Part 1. He handed down a four year, eight month prison term. Azatov rejected the charges against him.

"The Judge did not read out anything about any restrictions after his prison term," his lawyer Bauyrzhan Azanov told Forum 18 on 12 July. "We'll see the exact terms when we get the written decision in a few days' time."

Judge Pazylov's telephone went unanswered each time Forum 18 called on 13 July.

Like Kuanysh Bashpayev (sentenced in April), Denis Korzhavin (sentenced in May) and Nariman Seytzhonov (sentenced in June), Azatov had studied his faith at Medina Islamic University before returning to Kazakhstan in 2014 (see F18News 30 June 2017 http://www.forum18.org/archive.php?article_id=2292).

Astana NSC opened a case against Azatov in late December 2016 under Criminal Code Article 174, Part 1 ("Incitement of social, national, clan, racial, or religious discord"). He had met with other Muslims in Astana without state permission. He was arrested on 4 January 2017 (see F18News 18 April 2017 http://www.forum18.org/archive.php?article_id=2273).

Azatov was accused of "inciting religious discord" in his remarks to guests at a meeting in a cafe in Astana in September 2016 (of which the NSC secret police obtained a recording) and at a subsequent meeting in a home in the city.

Azatov and Seytzhonov (who was also present at the cafe) were given administrative fines in November 2016 to punish them for the meeting (see F18News 6 February 2017 http://www.forum18.org/archive.php?article_id=2253).

The NSC secret police later added charges against Azatov under Criminal Code Article 256, Part 1. The case reached court on 11 May, with the first hearings on 29 May.

The prosecution was based on secret recordings of the two September 2016 meetings in Astana. NSC secret police-appointed "expert" Roza Akbarova, deputy director of Astana's Centre for Judicial Expert Analysis, had found that Azatov's words contained "elements of extremism and the incitement of religious hatred". She claimed that he had "spoken negatively of Shia Muslims, that they blew up a mosque" and "by intonation emphasised certain forms of jihad, but did not openly call for any action", Radio Free Europe's Kazakh Service noted after the 8 June hearing which it attended.

Akbarova refused to discuss her "expert analysis" which had helped convict Azatov. "You have the right to accept or reject my expert analysis," she told Forum 18 from her Institute in Astana on 13 July. "But the law forbids me from discussing anything. Ask your questions of the Judge."

Akbarova similarly refused to discuss her analyses which helped imprison Seventh-day Adventist prisoner of conscience Yklas Kabdukasov in 2015 and Jehovah's Witness prisoner of conscience Teymur Akhmedov in 2017 (see F18News 15 June 2017 http://www.forum18.org/archive.php?article_id=2286).

During the trial, the lawyer Azanov tried to have the secret NSC recordings removed as evidence until an analysis could be undertaken as to whether they were of Azatov's voice and had not been tampered with. He also sought to have the "expert analysis" deemed inadmissible.

In his closing address to the court, Azanov insisted that his client had committed no crime and should therefore be acquitted, he noted on his page on the Russian social network VKontakte.

Oral: Trial imminent

The trial of Sunni Muslim Imam Abdukhalil Abdukhamidovich Abduzhabbarov (born 6 April 1975) in Oral appears imminent. Prosecutors handed the criminal case to Oral City Court on 12 July, according to court records. The case was assigned the same day to Judge Ruslan Zhumagulov.

No date has yet been set for the trial to begin, Judge Zhumagulov's assistant told Forum 18 on 13 July. He insisted the trial would be open. He said Abduzhabbarov is facing trial only under the equivalent of Criminal Code Article 174, Part 1. He said the case makes no mention of Criminal Code Article 256, Part 2.

Imam Abduzhabbarov is accused of actions that took place before the current Criminal Code came into force. He is therefore facing trial under Article 164 of the old Criminal Code, which similarly punished "inciting religious hatred".

The Judge's assistant said the case makes no mention of who will represent the Prosecutor's Office in the trial. The Astana-based lawyer Zhandos Bulkhayr will represent Imam Abduzhabbarov, he added.

Imam Abduzhabbarov's relatives insist he is innocent of any crime. "He has no connection with any actions they are accusing him of," one told Forum 18. "It is all lies and slander."

The NSC secret police arrested Imam Abduzhabbarov, extradited from Saudi Arabia at Kazakhstan's request, as he arrived at Almaty Airport on 18 February. He was then transferred to Oral in West Kazakhstan Region. His wife Dinara and their ten children went to stay with relatives in Shymkent in South Kazakhstan Region (see F18News 21 February 2017 http://www.forum18.org/archive.php?article_id=2259).

Oral: Prison punishment for observing Ramadan

Abduzhabbarov has been held in Oral's Interior Ministry Investigation Prison since soon after his arrest and transfer to the city in February. (The NSC secret police does not have its own Investigation Prison in Oral.)

Abduzhabbarov was punished in mid-June for praying and fasting during the Muslim holy month of Ramadan, which ran from late May to late June. He was sent to the Prison's punishment cell for at least ten days, family members complained to Forum 18. "He had to stand as it is impossible to sit or lie, there is no food except water and black bread," they noted.

Prison authorities released Abduzhabbarov from the punishment cell on 30 June, relatives told Forum 18. "You can imagine his state when he emerged from the punishment cell. We are still denied permission to hand in food for him and we are not allowed any meetings. Maybe they are torturing him there."

Relatives have had no telephone calls from Abduzhabbarov since May. "As soon as the new Investigator was named to his case he has not been allowed to call." Investigators have to give permission for meetings and telephone calls.

The head of the Investigation Prison, Mustafin Ismagulov, refused to explain why Imam Abduzhabbarov was punished for praying and fasting. "I can't comment by telephone," he kept repeating to Forum 18 on 13 July. He then put the phone down.

Many prisoners of conscience imprisoned for exercising the right to freedom of religion or belief have complained of being unable to pray visibly in prison or have religious literature. Other prisoners too have complained of these restrictions (see F18News 3 May 2017 http://www.forum18.org/archive.php?article_id=2277).

The UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules, A/C.3/70/L.3) require governments to respect the freedom of religion or belief and other human rights of prisoners – including those in pre-trial detention.

Four prisoners in a strict-regime labour camp UG-157/9 in Atyrau were put in the punishment cell on 29 May after they began the daytime Ramadan fast, human rights defender Asel Nurgazyeva told Radio Free Europe's Kazakh Service. She said the prison authorities had used a pretext to hand down the extra punishment (see F18News 21 June 2017 http://www.forum18.org/archive.php?article_id=2289).

Abduzhabbarov's prison address is:

Zapadno-Kazakhstanskaya Oblast

g. Oral

Ul. Mukhita 124

Kazakhstan

(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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