

25 July 2017

KAZAKHSTAN: Twentieth known 2017 criminal conviction

By Felix Corley, Forum 18

Sunni Muslim Dmitry Tsilenko, jailed for three years for alleged membership of banned Muslim missionary movement Tabligh Jamaat, is the 20th individual known to have been criminally convicted in 2017 for exercising freedom of religion or belief. Imam Abdukhalil Abduzhabbarov's trial began on 25 July.

On 4 July, Kostanai Regional Court rejected the appeal by 26-year-old Sunni Muslim Dmitry Tsilenko against his three-year prison term. The National Security Committee (KNB) secret police arrested him in October 2016 on charges of membership of the banned Muslim missionary group Tabligh Jamaat. The Prosecutor who led the case in court refused to explain what Tsilenko had done that might have justified imprisoning him.

Tsilenko's conviction brings to 20 the number of individuals known to have been given criminal convictions so far in 2017 to punish the exercise of freedom of religion or belief. Of these, 18 were Sunni Muslims and 2 Jehovah's Witnesses. Of the 20 (all of them men), 18 received prison terms and 2 received restricted freedom sentences, where they live at home under restrictions (see F18News 13 July 2017 http://www.forum18.org/archive.php?article_id=2296).

Tsilenko's conviction also brings to 61 the number of Sunni Muslims known to have been convicted on criminal charges since December 2014 accused of membership of the banned Tabligh Jamaat movement.

Meanwhile, the criminal trial began on 25 July in Oral (Uralsk) in West Kazakhstan Region of 42-year-old Sunni Imam Abdukhalil Abduzhabbarov. He denies the charges of "inciting religious discord" and "propaganda of terrorism". The trial is due to resume on 1 August (see below).

Kostanai: October 2016 arrest

Dmitry Valeryevich Tsilenko (born 7 February 1991 and who is unmarried) converted to Islam in about 2011 and began praying and attending mosque, according to a 22 July 2017 article in the regional newspaper "Kostanaiskie Novosti". It said he had got to know members of Tabligh Jamaat and went on visits to share his faith in the city of Almaty, Almaty Region and East Kazakhstan Region.

An Astana court banned the Tabligh Jamaat movement in Kazakhstan as "extremist" in February 2013, just a year after an extensive study commissioned by the KNB 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).

The KNB secret police arrested Tsilenko on 5 October 2016, according to case materials. He was held in pre-trial detention in Kostanai's Interior Ministry Investigation Prison (the KNB does not have its own Investigation Prison in Kostanai Region). The KNB accused Tsilenko of Tabligh Jamaat membership.

Charges were brought against Tsilenko under Criminal Code Article 405, Part 1. This 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.

Kostanai: Three year prison term

Tsilenko's case was handed for trial to Kostanai City Court No. 2 on 20 February 2017. His trial began under Judge Lyazzat Mukhamedzhanova on 6 March. Serik Yergaliyev of Kostanai Regional Prosecutor's Office led the case against him in court. Defending Tsilenko was local lawyer Sardarbek Shaekenov.

As the case had been initiated by the KNB secret police the trial was closed, Yergaliyev told Forum 18. However, others told Forum 18 that the trial was open and at least one fellow Muslim attended. Tsilenko's father acted as his lay public defender.

After repeated hearings, Judge Mukhamedzhanova found Tsilenko guilty on 12 May under Criminal Code Article 405, Part 1. She sentenced him to three years' ordinary regime labour camp, to count from the date of his arrest in October 2016, the court chancellery told Forum 18 on 25 July.

The Judge imposed no restrictions after Tsilenko has completed his prison term, the chancellery added. However, he is required to pay a fee of 278,038 Tenge (6,750 Norwegian Kroner, 725 Euros or 850 US Dollars) to cover the cost of "expert analyses" conducted as part of the prosecution case.

Yergaliyev, who has since been transferred to the Prosecutor's Office in Rudny, confirmed that he had led the prosecution of Tsilenko in court but refused to explain what harm he might have caused to anyone in his exercise of the right to freedom of religion or belief. "You don't know the whole case," he told Forum 18 from Rudny on 25 July, before adding: "I can't discuss anything by telephone as it is against procedures."

Tsilenko appealed against his conviction, but a panel of three judges at Kostanai Regional Court rejected his appeal at a closed hearing on 4 July, the court chancellery told Forum 18 on 25 July. It added that if Tsilenko is dissatisfied with the decision, he can appeal to the Supreme Court in the capital Astana.

On 20 July court bailiffs initiated moves to recover the court-imposed fee from Tsilenko. Nesibeli Basenova, the court bailiff in charge of recovering the fee, told Forum 18 on 25 July that as Tsilenko is in Investigation Prison it is doubtful if they will be able to seize anything from him to pay the fee.

Tsilenko – and Imam Abduzhabbarov if he is convicted - 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).

Kostanai: Can Tsilenko pray, read Koran?

The Special Department of Kostanai's Investigation Prison confirmed that it is still holding Tsilenko. "As soon as we get the appeal decision when it has entered into force he will be ready for transfer to a labour camp, which will probably be next week," an official told Forum 18 on 25 July. "It is not yet clear where he will be sent to serve his sentence."

Asked whether Tsilenko is able to have a copy of the Koran, to pray unobstructed and – in May and June – was able to observe the Muslim holy month of Ramadan, the Special Department official passed the phone to another official. "We can't give such information by phone," he kept repeating and then put the phone down.

Prisoners have repeatedly complained of being denied access to religious books of their choice and punished for trying to observe their faith.

Imam Abduzhabbarov – who is now on trial in Oral (see below) - spent at least ten days in the Investigation Prison punishment cell in late June for praying and fasting in Ramadan. While in the punishment cell he was given only black bread and water, and had to stand (see F18News 13 July 2017 http://www.forum18.org/archive.php?article_id=2296).

Tsilenko's address in Kostanai Investigation Prison (until his expected transfer to labour camp in early August):

Kostanaiskaya Oblast

g. Kostanai

ul. Dzhangildina 9

Sledstvenny izolyator UK-161/1

Kazakhstan

Oral: Trial begins

The trial of Sunni Muslim Imam Abdukhalil Abdukhamidovich Abduzhabbarov (born 6 April 1975) began under Judge Ruslan Zhumagulov at Oral City Court in West Kazakhstan Region in the morning of 25 July. Prosecutor's Office official Kairat Daukenov is leading the case against him in court.

Imam Abduzhabbarov is facing charges under Criminal Code Article 174, Part 1 and Article 256, Part 2. He rejected the accusations in court.

Article 174, Part 1 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" committed by individuals. If convicted, they face two to seven years' imprisonment, or two to seven years' restricted freedom.

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).

Article 256, Part 2 punishes: "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 - 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.

Prosecutors had earlier appeared to have withdrawn the Article 256 charges against Abduzhabbarov (see F18News 13 July 2017 http://www.forum18.org/archive.php?article_id=2296). However, this turned out not to be the case.

Oral: Trial to be part-closed

"Abduzhabbarov, using the nickname Sheikh Khalil, called on Muslims to designate as 'kafirs' [unbelievers] those Muslims who do not pray the namaz and not to buy meat from 'kafirs', and also called for jihad," Daukenov claimed in the indictment read out in court, Sanat Urnaliyev of Radio Free Europe's Kazakh Service – who was present in the courtroom – noted after the hearing.

The indictment claimed that Abduzhabbarov had preached "the ideas of Wahhabism and takfirism [Muslims deeming other people to be unbelievers]" from 2003 at various mosques in Atyrau, Oral and Aktobe.

Imam Abduzhabbarov asked in court to be tried with a jury, but Judge Zhumagulov rejected this, Radio Free Europe noted. Kazakhstan has held only small scale experiments with jury trials and most cases are decided by judges.

Imam Abduzhabbarov's lawyer Zhandos Bulkhayir asked for the case to be adjourned to allow more time for him to prepare the defence case. The trial is due to resume on 1 August, when Imam Abduzhabbarov will be questioned.

Judge Zhumagulov warned journalists that 27 "witnesses" from Oral will be questioned during the trial at closed sessions. He claimed that the witnesses "feared for their lives", Radio Free Europe noted. About 100 "witnesses" are due to be questioned in all as part of the trial.

Imam Abduzhabbarov's hair and beard had been closely shaved. Attending the trial was Abduzhabbarov's wife Dinara, one of their ten children, and Abduzhabbarov's brother.

Imam Abduzhabbarov lived and worked in Saudi Arabia for ten years. The KNB secret police arrested him, 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).

Abduzhabbarov's prison address is:

Zapadno-Kazakhstanskaya Oblast

g. Oral

Ul. Mukhita 124

Sledstvenny izolyator RU-170/1

Kazakhstan

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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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