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KAZAKHSTAN: Worship banned

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

Courts banned worship by Almaty's Source of Life Protestant Church from April to July, Almaty's Jehovah's Witness Centre from August to November, and – if its appeal fails – Oskemen's New Life Protestant Church for three months. Jehovah's Witnesses described their ban as "a grossly disproportionate penalty".

In at least three known cases in 2017, courts have banned religious communities from any activities, including meeting for worship, for three months. On 18 August a court fined and banned New Life Protestant Church in Oskemen (Ust-Kamenogorsk) because church members sang religious songs at a summer camp. The ban has not yet come into force as the Church is appealing to East Kazakhstan Regional Court.

Asked what would happen if the ban enters into legal force and church members continue to meet for worship during the three months, a state religious affairs official told Forum 18: "We'll fine them again" (see below).

In Almaty a court banned the entire Jehovah's Witness Administrative Centre for three months because the 25 surveillance cameras it had installed to comply with the law left three small areas without camera coverage. The City Court changed the decision on appeal, banning only the use of the worship areas of the Centre. Jehovah's Witnesses described the ban as "a serious hindrance to the life of the religious community". The ban came into force on 3 August and will last until 3 November (see below).

A court in Almaty fined the Protestant Source of Life Church and banned it from 13 April to 12 July because it was meeting in a venue away from its registered address, even though the Church had informed the authorities (see below).

As well as prescribing fixed fines, many Parts of Article 490 of the Administrative Code (which punishes violations of the harsh Religion Law) already prescribe a fixed three-month ban on activity when a first-time "offence" is conducted by an organisation. Fixed higher fines and a permanent ban are mandated for second "offences".

If legal amendments now being prepared are approved by Parliament, courts would in future be obliged to choose to ban religious communities for either three months or permanently for many violations of the restrictive Religion Law, including for a first "offence".

The wide-ranging legal amendments – which violate Kazakhstan's international human rights commitments - may reach Parliament in September or October (see F18News 18 August 2017 http://www.forum18.org/archive.php?article_id=2308).

Banned, not allowed

At present, religious communities are only banned permanently if the state proves or claims that they are "extremist" or "terrorist", or if they commit a second "offence" against the restrictive Religion Law.

An Astana court banned the Tabligh Jamaat Muslim missionary movement in Kazakhstan as "extremist" in February 2013, just a year after an extensive study commissioned by the National Security Committee (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).

However, Kazakhstan – in defiance of its international human rights commitments – bans all exercise of freedom of religion or belief without state permission. This means that religious communities which do not want to or are unable to gain state registration are in effect banned and risk punishment if they continue to meet for worship.

Council of Churches Baptists – who continue to meet for worship while choosing not to seek state permission to exercise their right to freedom of religion or belief – face frequent raids, fines, confiscations and travel bans.

The government allows only one Muslim organisation in the entire country to gain state registration - the Muslim Board (which

represents only Hanafi Sunni Islam). This means that no other forms of Islam are allowed to exist legally. This prevents Shia and Ahmadi Muslims from gaining registration, as well as mosque communities serving mainly one ethnic community or ones that want to function independently of the Muslim Board (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Bans violate international human rights commitments

Given that Kazakhstan bans all religious activity without state permission, a ban (even if temporary) would prevent individuals and members of such a banned community from meeting for worship.

Such court-ordered bans violate Kazakhstan's international human rights commitments. Article 18 of the International Covenant on Civil and Political Rights – to which Kazakhstan is a party – guarantees the right to freedom of religion or belief.

It adds: "Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others."

General Comment 22 of the United Nations Human Rights Committee (CCPR/C/21/Rev.1/Add.4) explains the permitted limitations in more detail: "Limitations imposed must be established by law and must not be applied in a manner that would vitiate the rights guaranteed in article 18."

And it adds: "Limitations may be applied only for those purposes for which they were prescribed and must be directly related and proportionate to the specific need on which they are predicated. Restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner."

On 4 September, Forum 18 asked Aliya Abeldinova, deputy chair of the Religious Affairs Committee (part of the Religion and Civil Society Ministry in the capital Astana), how such bans on entire communities comply with Kazakhstan's international human rights commitments. Forum 18 also asked why proposed new legal amendments would allow such bans to be imposed permanently even for a first "offence", rather than to be limited to three months. She refused to answer any questions on this and put the phone down.

Personal bans also

In many other cases, courts have banned individuals convicted on criminal charges for exercising freedom of religion or belief from exercising freedom of religion or belief after they complete their prison terms.

At least 15 of the 22 people given criminal convictions so far in 2017 have been handed such post-prison bans on exercising freedom of religion or belief for between two and four years (see F18News 29 August 2017 http://www.forum18.org/archive.php?article_id=2311).

In many administrative cases too, courts ban individuals from specific activity for three months. Retail traders who offer even one religious book or icon for sale without the compulsory state licence from their Regional Religious Affairs Department face not only fines but a ban on trading for three months.

Officials found the Gifts and Books shop at Astana's International Airport offering nine Muslim books for sale. On 24 July, an Astana court fined the company that owns the shop the prescribed fine for organisations of 200 Monthly Financial Indicators (MFIs), 453,800 Tenge. It also banned the business literature section of the Gifts and Books shop – where the religious books were found – from functioning for three months (see F18News 3 August 2017 http://www.forum18.org/archive.php?article_id=2302).

Each 100 MFIs (currently 226,900 Tenge – 5,200 Norwegian Kroner, 550 Euros or 660 US Dollars) represents about two months' average wage for those in work.

On 10 July, a court in Almaty Region fined Protestant pastor Marat Tlegenov and five foreign visitors for illegal "missionary activity" after the group had held an outdoor baptism. All were fined and one of the foreigners was ordered deported. The court fined each of the other four foreign citizens 50 MFIs, 113,450 Tenge, and banned them from conducting unspecified activities for three months (see F18News 4 August 2017 http://www.forum18.org/archive.php?article_id=2303).

Oskemen: New Life Church fined, banned for three months

New Life Protestant Church in Oskemen (Ust-Kamenogorsk) is appealing to East Kazakhstan Regional Court against a lower court decision fining the church and ordering it banned for three months, church members told Forum 18 from the city on 6 September. No date has yet been set for the appeal to be heard.

The lower court decision fining and banning the Church enters into force only once any appeal has been heard.

Trouble began for the Church on 28 July, when church members, relatives and friends were at the Zorka holiday camp by a reservoir in Zhyryanovsk District south-east of Oskemen. That evening, a resident called the police to complain that she had heard religious songs from the group. A group of four police officers arrived at the camp to investigate.

Church member Yelena Tretyakova told Radio Free Europe's Kazakh Service on 17 August that the camp administrator had told her that the police were already present at least 15 minutes before the resident called them to complain.

On 4 August, Eldar Meirbayev of the regional Religious Affairs Department drew up a record of an offence against the Church, seen by Forum 18. It states that the Church should have obtained written permission but had not, and therefore the singing of religious songs at the camp was a violation of Administrative Code Article 490, Part 1, Point 1.

Article 490, Part 1, Point 1 punishes "violation of procedures established in law for conducting rites, ceremonies and meetings". Punishment for individuals is a fine of 50 MFIs, and for organisations a fine of 200 MFIs plus a three-month ban on activity.

Tretyakova, who signed the record of an offence, noted on it: "I do not agree, as facts are inaccurate."

The Church's Pastor Vitaly Zatolokin lodged a challenge to the administrative case, insisting that the Church had conducted no rituals at the camp and rejecting the accusations against it. He also complained that the police officers "had not behaved correctly and were threatening". However, on 16 August Judge Aliya Akhmetova of Oskemen's Specialised Administrative Court dismissed the challenge, according to the decision seen by Forum 18.

The same Judge Akhmetova at the same Court heard the administrative case on 18 August, when she found the Church guilty, according to the decision seen by Forum 18. She ruled that singing religious songs constituted a religious service and that the Church was therefore responsible for holding a service in a location not approved by the authorities. She fined it 200 MFIs, 453,800 Tenge, and banned its activity for three months, the prescribed punishment for organisations.

Officials of the Regional Religious Affairs Department told Forum 18 from Oskemen on 5 September that Meirbayev – who had drawn up the record of an offence and had appeared in court to support the prosecution – no longer worked there.

Department official Aitkurman Turganbayev supported the fine and three-month ban handed to New Life Church. "But we didn't prescribe the ban – that was the court," he insisted to Forum 18 the same day. He denied that his Department – which had initiated the administrative case – is a "punitive body".

Asked what would happen if the court decision enters into force after any appeal and church members meet for worship during the three-month banning period, Turganbayev responded: "We'll fine them again." He then put the phone down.

Almaty: Jehovah's Witness Centre fined, banned for three months

Trouble began for the Jehovah's Witness Administrative Centre in Almaty on 17 May. The NSC secret police, as well as the ordinary police, raided the Administrative Centre. More than 30 officers, some masked and carrying automatic weapons, conducted the raid "in broad daylight" and "on the pretext of conducting a security inspection", Jehovah's Witnesses complained. "They claimed that they were carrying out an order to inspect public venues to ensure their safety prior to Expo 2017, which began in the capital city of Astana in June 2017."

On 5 June, police began an inspection of the Administrative Centre and authorities claim the inspection revealed violations of certain protocols. The inspection alleged that the Centre needed three more security cameras in addition to the 25 already installed in order to comply with legislation concerning public venues. Jehovah's Witnesses installed the three recommended extra cameras by the end of the inspection on 8 June.

However, on 6 February, state officials had already approved an official plan for the Centre's property, showing the location of all installed security cameras. "By approving that official plan, the State officials confirmed that the Centre was in full compliance with the relevant legislation," Jehovah's Witnesses noted.

Jehovah's Witnesses disputed the findings of the June inspection, complaining that it was conducted in a way that violated legal procedures. They brought a suit against the District and City Police in Almaty's Specialised Inter-District Economic Court, but it refused to hear their suit on 13 June, according to the decision seen by Forum 18. Almaty City Court rejected their appeal against this refusal on 12 July.

Police also interfered in the Jehovah's Witness convention, held at the Administrative Centre between 23 and 25 June. Some 1,500 foreign guests joined thousands of local Jehovah's Witnesses. On the first two days, police stopped coaches with foreign delegates at their hotels for several hours on the pretext of checking drivers' documents (11 coaches on the first day, 20 on the second). The Centre filed a complaint with Almaty Prosecutor's Office, but it did not respond.

On 29 June, Judge Nurzhan Pakirdinov of Almaty's Specialised Inter-District Administrative Court found the Jehovah's Witness Administrative Centre guilty of violating Administrative Code Article 149, Part 2. This punishes: "Non-fulfilment and (or) inadequate fulfilment of duties on providing antiterrorist protection and observing the proper level of security of an object vulnerable to terrorism".

The Judge fined the Centre 300 MFIs, 680,700 Tenge, according to the decision seen by Forum 18. He also banned all its activity for the three months.

"The decision to suspend all of the Centre's activities is a grossly disproportionate penalty for the alleged violation," Polat Bekzhan, chair of the Administrative Centre, complained. "We are appealing the decision, which seems to have been motivated by religious intolerance."

Late in the evening on 3 August, at the second hearing in the case, Judge Zhenis Karibayev of Almaty City Court upheld the fine, but partially modified the ban, according to the decision seen by Forum 18. Instead of banning for three months the entire Administrative Centre and all activity on its premises, he restricted the ban to "the use of the buildings and territory vulnerable to terrorism, where the place of worship and seasonal tent" are located.

The 81-year-old, disabled resident of the Centre, Anatoly Melnik, told the hearing that if worship is banned at the Centre he and his 79-year-old wife would be unable to travel anywhere else to worship with others.

The decision imposing the fine and three-month ban came into force when it was issued.

"The Court thus satisfied the request of Jehovah's Witnesses not to extend the suspension decision to the major part of the activity of the legal entity, including the use of its administrative buildings," Jehovah's Witnesses noted the following day.

However, Jehovah's Witnesses lamented that several of their groups in Almaty, which used to meet for worship at the Centre, would have to find other temporary places to worship. They pointed out that this would create difficulties particularly for older Jehovah's Witnesses. "This could be seen as a serious hindrance to the life of the religious community in Almaty."

Asked why Jehovah's Witnesses are being restricted in their right to meet for worship, Yergali Kosheke, deputy head of Almaty City Religious Affairs Department, insisted: "We don't ban anyone and we don't persecute anyone".

Asked by Forum 18 on 5 September what would happen were Jehovah's Witnesses to meet for worship at the Administrative Centre during the three-month ban, Kosheke responded: "We would take measures to ensure compliance with the law." He refused to specify what measures would be taken, but said that court bailiffs, not the Religious Affairs Department, would take any measures. He then put the phone down.

Courts have fined other religious communities for failing to have enough security cameras, but Forum 18 is not aware that any of these have been banned for three months. The leader of one such community fined 200 MFIs during the summer, who asked not to be identified, confirmed to Forum 18 that the community had not been banned.

Almaty: Source of Life Church fined, banned for three months

Officials of Almaty's Religious Affairs Department raided Source of Life Protestant Church's 25 January meeting for worship. The Church was meeting in a rented venue, not their legal address, of which they had informed the city's Almaty District authorities.

Despite this, on 15 March Almaty Specialised Administrative Court fined the Church under Administrative Code Article 490, Part 1, Point 1. This punishes "violation of procedures established in law for conducting rites, ceremonies and meetings". As well as the prescribed fine for religious organisations of 200 MFIs, the Church was also handed the prescribed three-month ban (from 13 April to 12 July). On 13 April, Almaty City Court rejected the church's appeal (see F18News 25 April 2017 http://www.forum18.org/archive.php?article_id=2275).

Source of Life Church then appealed to the Supreme Court in Astana. However, on 19 May Judge Denis Shipp sent the case back without hearing it (see F18News 8 June 2017 http://www.forum18.org/archive.php?article_id=2285). (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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