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KAZAKHSTAN: Ten years jail if Germany extradites Muslim?

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

Murat Bakrayev has not been in his native Kazakhstan since 2005, but Kazakhstan now wants his extradition from Germany on terrorism-related accusations. Family and friends say he is being detained and his extradition sought for refusing to join Kazakh state-controlled mosques and teaching Islam.

Thirteen years after his 2005 departure from Kazakhstan, the Kazakh authorities are seeking the extradition from Germany of Atyrau-born Sunni Muslim Murat Bakrayev. Officials have told his family he faces a minimum 10-year imprisonment. His family and friends say he is being punished for his refusal to belong to state-controlled Muslim institutions while he was still living in Kazakhstan and his recorded religious talks since he left.

Prosecutors and Police in Kazakhstan's Atyrau Region have refused to discuss Bakrayev's case with Forum 18. The Regional Police told Forum 18 they have no recorded criminal case against him, but would not say who had initiated the case. The National Security Committee (NSC) refused to give Radio Free Europe's Kazakh Service any information on the case (see below).

The German authorities detained the 37-year-old Bakrayev on 15 September 2018 as he entered Germany from the Czech Republic, where he has lived since 2005 and where he gained refugee status the following year. They were acting on an Interpol Red Notice at the request of the Kazakh authorities (see below).

Human rights defenders have criticised governments' misuse of Interpol Red Notices to target individuals – including human rights defenders - on political grounds (see below).

The Kazakh authorities accuse Bakrayev of inciting religious hatred, propaganda of terrorism or extremism, and organisation of a banned organisation. He rejects all the accusations, according to the 21 September German court decision upholding his temporary pre-extradition detention. The decision gives the Bamberg public prosecutor's office until 2 November 2018 to get more detailed information about the case against Bakrayev from the Kazakh authorities (see below).

Part of the Kazakh authorities' case relies on a social media account they claim Bakrayev set up. He denies setting up or using the account. The Kazakh authorities have previously used fake accounts in apparent attempts to entrap people they are targeting (see below).

Among those the Kazakh authorities have had extradited after long absences abroad is Sunni Muslim prisoner of conscience Imam Abdukhalil Abduzhabbarov. Kazakhstan gained his extradition from Saudi Arabia and he was arrested as he landed back in the country in 2017. He was jailed for eight years for sermons he gave before he left Kazakhstan in 2006. He remains in solitary confinement in a prison in Kyzylorda, where he is allowed just two meetings with relatives each year. He last saw his wife in April 2018 and is not due to see her again until 2019 (see below).

Abduzhabbarov was among five Sunni Muslims jailed in 2017 after having lived or studied in Saudi Arabia (see F18News 29 August 2017 http://www.forum18.org/archive.php?article_id=2311).

Even more restrictions on the freedom of religion and belief of everyone, including specifically of Muslims, are being passed by Kazakhstan's government through its parliament (see F18News 28 September 2018 http://www.forum18.org/archive.php?article_id=2419).

Bakrayev: Did not join state-controlled mosques, harassed in Atyrau

Murat Umbetovich Bakrayev (born 28 September 1981) became a Muslim at age 16 in his home town of Atyrau in western Kazakhstan. He adopted the Muslim name Abdulkhak. He would not attend mosques controlled by the state-controlled Muslim Board. Kazakhstan imposes total state control of all public expressions of Islam (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=2409).

"Murat studied his faith on his own from books he bought locally," his wife Aktilek Mardanova told Forum 18 from the Czech Republic on 15 October 2018. "He met with his friends to pray."

However, Bakrayev soon faced pressure from the authorities. "The NSC secret police visited him at home and regularly took his fingerprints," his wife recalled. "Although he was never fined, they threatened to arrest and punish him." In 2004 they threatened to plant drugs on him and use that as an excuse to jail him "just as they have done with many others", Mardanova added.

A Muslim elsewhere in Kazakhstan says that gathering for religious study and prayer in homes still attracts punishment. "It depends on any 'expert analysis'," the Muslim told Forum 18 on 17 October 2018. "They could just hand down a fine, or bring a criminal prosecution." For example, on 7 July 2018 police raided the home of husband and wife Aidar Kharsanov and Zarina Manu, and they were subsequently fined for teaching Koran to school-age girls (see F18News 22 August 2018 http://www.forum18.org/archive.php?article_id=2407).

A 28 February 2004 article in local newspaper "Atyrau Sakshysy" claimed that Bakrayev was among seven Muslims it described as "Wahhabis" detained by the police Directorate for the Struggle with Organised Crime in Atyrau. The home owner and another local Muslim had just returned from the haj pilgrimage to Mecca, which they had undertaken "without having agreed it with the Regional NSC [secret police] and the Muslim Board".

Bakrayev decided to leave Kazakhstan with his family. He travelled first to Russia and then arrived in the Czech Republic in December 2005, where he claimed asylum. The Czech authorities granted him refugee status the following year on grounds of religious persecution. "The Kazakh authorities had lodged no criminal case against him when he left, and he left the country officially, travelling first to Moscow," Mardanova told Forum 18.

Bakrayev: Lectures on Islam

While working in the Czech Republic, Bakrayev continued to study his Islamic faith and improve his knowledge of Arabic. As well as translating Islamic books from Arabic to Russian he also recorded talks about his faith which he sent to friends who had requested them, his wife told Forum 18.

Bakrayev's more than 100 talks covered subjects such as how to fast correctly, how to wash, and marriage. "In no lecture did he call for extremism or violence," a Kazakh friend who is also a refugee told Forum 18 from the Czech Republic on 13 October. "On the contrary, he called on young people to show Islam's good side and to be an example."

Bakrayev also called on Muslims to respect others who are Christians or non-believers. "He taught that human rights must be protected in Islam, regardless of people's religious beliefs," his friend added.

Bakrayev: Kazakh threats

Following the family's departure from Kazakhstan in 2005, the NSC secret police and other officials stepped up their harassment of both Bakrayev's and his wife's relatives. "Many were summoned for interrogations lasting up to 4 hours," Mardanova told Forum 18. "Officials told them that they would get Murat back to Kazakhstan." NSC officers told relatives Bakrayev would receive a minimum 10-year jail term.

Mardanova said other Kazakh Muslim exiles forced to return home were arrested and jailed. Many were pressured to give testimony against her husband.

In summer 2015, Mardanova and her mother-in-law (Bakrayev's mother) visited the Kazakh Embassy in Prague. By now a Czech citizen, as are their three children, Mardanova was seeking to renounce her Kazakh citizenship. "Embassy officials openly threatened me, and said they wanted Murat to come in," Mardanova told Forum 18. "It was only when I told them that I am a Czech citizen that they let us leave."

Bakrayev: Kazakh criminal case

By January 2017 the authorities in Atyrau had launched a criminal case against Bakrayev. Regional Prosecutor's Office official Marat Khabibullin brought a suit to Atyrau City Court No. 2 to have Bakrayev arrested and held in pre-trial detention. On 9 January 2017 Judge Gaukhar Ibrasheva upheld the suit, the Court chancellery told Forum 18 on 16 October 2018.

Khabibullin accused Bakrayev of violating Article 164, Part 1 and Article 233-1, Part 2 of the Criminal Code in force until the end of 2014. He also accused Bakrayev of violating Article 405, Part 1 of the current Criminal Code, which came into force on 1 January 2015.

Article 164, Part 1 of the old Criminal Code punished: "Deliberate actions aimed at the incitement of social, national, clan, racial, or religious enmity or antagonism, or at offence to the national honour and dignity, or religious feelings of citizens, as well as

propaganda of exclusiveness, superiority, or inferiority of citizens based on their attitude towards religion, or their genetic or racial belonging, if these acts are committed publicly or with the use of the mass information media". No definitions were offered for the concepts criminalised by Article 164, which had a maximum punishment of five years imprisonment, and which was also used against atheist writer Aleksandr Kharlamov (see F18News 26 July 2013 http://www.forum18.org/archive.php?article_id=1860).

Article 233-1, Part 2 of the old Criminal Code punished "Propaganda of terrorism or extremism, or public calls to commit an act of terrorism or extremism, as well as the distribution of material of the content indicated" when conducted by the leader of an organisation, with the use of the media or by a group. Punishments were imprisonment of between five and 10 years and this Article was used against retired Presbyterian pastor Bakhytzhan Kashkumbayev (see F18News 22 January 2014 http://www.forum18.org/archive.php?article_id=1918).

Article 405, Part 1 of the current Criminal Code 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. Many Muslims accused of membership of the banned Muslim missionary movement Tabligh Jamaat have been jailed or otherwise convicted under this Article (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=2409).

Bakrayev: Wanted

As the authorities could not arrest Bakrayev in January 2017, they added him to the list of wanted individuals on the General Prosecutor's Office website. The announcement, which is still accessible on the site, claimed Bakrayev "hid from the decision of the court". It makes no mention that he has not visited Kazakhstan since 2005.

Forum 18 was unable to reach Khabibullin at Atyrau Regional Prosecutor's Office on 16 and 17 October. Officials said he was out of the office in court hearings. One official confirmed that Khabibullin is still working on Bakrayev's case and that he is the only prosecutor involved.

Officials at Atyrau City Police, which was listed on the wanted announcement as being responsible for hunting Bakrayev down, refused to discuss the case. "I don't know anything about it," Deputy Head Mukhtar Begtugunov, who is responsible for investigations, told Forum 18 from Atyrau on 10 October. Other City Police officers said only the Regional Police Press Office could discuss any case.

Atyrau Regional Police Press Office told Forum 18 they have no recorded criminal case against Bakrayev, but would not say who had initiated the case.

Bakrayev: September 2018 detention

Bakrayev had travelled across Europe since he received refugee status in the Czech Republic with no problem, his wife told Forum 18. However, on 15 September 2018, as he left the Czech Republic, border guards said there was a problem with his documents but let him through.

When Bakrayev reached the German side near the Bavarian town of Seld, the German authorities detained him on an Interpol Red Notice issued at the request of the Kazakh authorities, his wife told Forum 18. They handcuffed him and transferred him to the holding centre in the nearby town of Hof.

Human rights defenders have criticised governments' misuse of Interpol Red Notices to target individuals – including human rights defenders - on political grounds (<http://www.fairtrials.org/news/blunted-still-dangerous-more-reforms-needed-stop-abuse-interpol>).

At a 21 September court hearing in Bamberg, of which Forum 18 has seen the decision, the German public prosecutor presented the case as outlined by the Kazakh authorities. They claimed that Bakrayev should be extradited for having organised a "terrorist organisation". They claimed that he travelled to the Czech city of Brno in 2006 as a member of At takfir al-hijra, a Muslim organisation banned by an Astana court in August 2014.

The Kazakh authorities claimed that in 2008 Bakrayev founded an organisation called Abulkhaki's Jamaat ("jamaat" is the Arabic word for assembly) "to spread his campaign against unbelievers" and try to recruit new adherents. They claimed he created a group "Kalimat Tauhid" on the Russian social network VKontakte where his talks – which "according to expert opinion" incited terrorism and religious discord - were posted.

The Bamberg court decision notes Bakrayev's absolute denial of any wrongdoing and opposition to any extradition to Kazakhstan. "He would be arrested or even killed," the decision cites him as maintaining. "He taught Islam in Kazakhstan but had nothing to do with terrorism. He himself equally hates terrorists."

The court gave Bamberg public prosecutor's office until 2 November to get more detailed information from the Kazakh authorities

about the specific allegations against Bakrayev. This includes "when and in what audio lectures and with what concrete content were they posted".

The VKontakte page "Kalimat Tauhid" has posts from June 2014 to April 2015, all relating to Islam. Some of the posts are talks by Abdulkhak.

Bakrayev: Fake social media account opened by police?

Bakrayev's wife Mardanova insisted to Forum 18 that her husband had never set up any page on VKontakte and did not know how to. "It seems the police opened it themselves."

The Kazakh authorities have used fake accounts in apparent attempts to entrap people they are targeting. Radio Free Europe's correspondent in Aktau, Saniya Toiken, found someone online using her name to call for Aktau residents to gather and protest, she told Eurasianet.org for a 29 August article. Police then came to her flat and knocked on the door for several hours, but she did not answer. She filed a complaint with police about the fake account.

Following Bakrayev's detention, the NSC secret police refused to give Radio Free Europe's Kazakh Service any information on the case, it noted on 13 October.

Abduzhabbarov: Still in solitary confinement

One year after his transfer to a harsher prison, Sunni Muslim prisoner of conscience Imam Abdukhalil Abduzhabbarov remains in solitary confinement, his relatives told Forum 18 on 16 October.

Imam Abduzhabbarov has been held in solitary confinement and had his meetings with relatives restricted since his transfer in October 2017 to a mixed regime prison in the southern city of Kyzylorda with harsher conditions. A court sentenced him to serve his eight-year term in a general regime labour camp and officials did not explain why he was transferred to harsher conditions (see F18News 18 May 2018 http://www.forum18.org/archive.php?article_id=2378).

In 2011, the then-United Nations (UN) Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Juan Mendez condemned the use of solitary confinement, including in Kazakhstan, stating it could amount to torture (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=2409).

Prison officials have prevented Abduzhabbarov from having his own copy of the Koran in Arabic. His wife Dinara took a copy when she visited him in December 2017. She brought with her a letter from the then acting head of the Religious Affairs Department of West Kazakhstan Region, Adil Nurmukhanov. The 6 November 2017 letter – seen by Forum 18 - confirms that the Arabic-language Koran "has undergone a religious studies expert analysis and does not contradict Kazakhstan's laws".

"The prison administration read the letter but refused to accept the Koran, saying they have this book and they can give it to him to read," Abduzhabbarov's relatives told Forum 18. "We don't know if they do so."

Dinara next visited her husband in April 2018. As other relatives visited Abduzhabbarov later in the year this means his two permitted two-hour visits for the year have now been used up. She will not be able to visit again until 2019, relatives complained to Forum 18. About half of their 10 children have not seen their father since his February 2017 arrest.

Imam Abduzhabbarov's prison address is:

Kyzylordinskaya Oblast

120001 g. Kyzylorda

ul. Tole bi 112

Uchr. ZK-169/1

Abdukhalil Abdukhamidovich Abduzhabbarov

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=2409.

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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