

1 March 2019

KAZAKHSTAN: Germany rejects extradition request

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

Germany rejected Kazakhstan's request to extradite Murat Bakrayev for talks on Islam Kazakhstan insists incited hatred and terrorism. A Kazakh judge ordered Muslim books destroyed, including a hadith collection. A Kazakh court rejected Muslim prisoner of conscience Kuanysh Bashpayev's request for conditional release after earlier torture.

A court in the German state of Bavaria has rejected Kazakhstan's attempt to have Sunni Muslim Murat Bakrayev extradited back to Kazakhstan for trial. Bamberg court freed him from detention on 21 February. However, he remains on Kazakhstan's list of wanted "criminals".

Bakrayev rejected all of Kazakhstan's claims that he had incited religious hatred and promoted terrorism. Detained by the German authorities on 20 September 2018, he spent a total of five months in detention in Germany as he fought Kazakhstan's extradition request (see below).

The German authorities detained Bakrayev on the basis of an Interpol Red Notice initiated by Kazakhstan. Human rights defenders have criticised governments' misuse of Interpol Red Notices to target individuals – including human rights defenders - on political grounds (see below).

The verdict by an Atyrau court in western Kazakhstan in the cases of two childhood friends of Bakrayev, given suspended sentences in December 2018, reveals that the judge ordered several Muslim books seized from them to be destroyed. These included a collection of hadith (sayings attributed to the Muslim prophet Muhammad). The judge refused to discuss his order to destroy the books with Forum 18 (see below).

Kazakh courts on occasion order religious literature seized in criminal or administrative cases to be destroyed. Human rights defender Yevgeny Zhovtis described such court-ordered book destructions to Forum 18 in 2015 as "barbarism". (http://www.forum18.org/archive.php?article_id=2442)

A court in Aktau has rejected an appeal by Muslim prisoner of conscience Kuanysh Bashpayev to be transferred to a sentence served outside of a jail after serving more than half his jail term. His 14 January appeal to the court, seen by Forum 18, notes his six young children at home, as well as his health problems caused by prison conditions and torture inflicted on him while in a labour camp in Pavlodar (see below).

Meanwhile, two more Muslim prisoners of conscience have been added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". Being added to the List means that any bank accounts an individual may have are blocked with no further legal process. Their families are allowed to withdraw only small amounts for daily living if they do not have other sources of income. (http://www.forum18.org/archive.php?article_id=2409)

Abilai Bokbasarov, jailed in Balkhash on 9 January for alleged membership of the Tabligh Jamaat Muslim missionary movement, (http://www.forum18.org/archive.php?article_id=2452) was added on 15 February. Dadash Mazhenov, jailed in Burabai on 16 November 2018 for posting online talks on Islam which the authorities claim promoted terrorism, was added on 25 February 2019.

Mazhenov's family have vowed to continue their fight to have his conviction overturned, through the Supreme Court, a review of the investigation, or an appeal to the United Nations human rights bodies. Mazhenov was transferred on 21 February to a labour camp in the southern city of Shymkent to serve his sentence, about 1,200 kms from his home (see below).

Bakrayev: Extradition request rejected

The Kazakh authorities have been trying to get back Atyrau-born Sunni Muslim Murat Bakrayev, who left the country with his family in 2005 after threats to arrest him in Atyrau and settled in the Czech Republic.

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.

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 in October 2018. "On the contrary, he called on young people to show Islam's good side and to be an example."

By January 2017 the authorities in Atyau had launched a criminal case against Bakrayev. On 9 January 2017 Atyrau City Court No. 2 upheld the Prosecutor's Office suit to have Bakrayev arrested and held in pre-trial detention. The Prosecutor 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.

After they failed to find him in Kazakhstan, the Kazakh authorities requested that Interpol issue a Red Notice, which it did in 2017. The German authorities detained Bakrayev on the basis of this Red Notice on 15 September 2018 as he crossed into the country from the Czech Republic. (http://www.forum18.org/archive.php?article_id=2423)

On 21 February, a panel of three judges at Bamberg court rejected Kazakhstan's extradition request as "inadmissible" and ordered Bakrayev's release from detention, according to the decision seen by Forum 18.

Bakrayev told the court he did not need the compensation available to those who have been held in detention for long periods, his family told Forum 18. He returned to his home the same day.

Bakrayev intends to try to have Interpol annul the 2017 Red Notice initiated by Kazakhstan. Interpol's headquarters in the French city of Lyon declined to comment to Forum 18 on 28 February on Bakrayev's case. It noted that in such cases, "this information remains under the ownership of that member country. Interpol does not therefore comment on specific cases or individuals except in special circumstances and with the approval of the member country concerned."

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>)

As of 1 March, Kazakhstan's General Prosecutor's Office continues to list Bakrayev in its online database of wanted "criminals".

Kazakh court orders Muslim books destroyed

Two men from Atyrau arrested in an apparent attempt to pressure them to give testimony against Murat Bakrayev, were convicted on 6 December 2018. Judge Zhumagali Tashimov of Atyrau City Court No. 2 gave Erzhan Sharmukhambetov and Ermek Kuanshaliyev restricted freedom terms of three and a half years each. (http://www.forum18.org/archive.php?article_id=2452)

The verdict in the cases, seen by Forum 18, reveals that the judge ordered several Muslim books seized from the two men to be destroyed. The books ordered destroyed included: "Sahih al-Bukhari", a collection of hadith (sayings attributed to the Muslim prophet Muhammad) by the ninth-century scholar Muhammad al-Bukhari; "Gardens of the Righteous" by the thirteenth-century scholar Imam al-Nawawi; and a book by Sheikh Mukhammad-Khusein Alsabekov, an advisor to Kazakhstan's Chief Mufti. The verdict gives no reason for the order to destroy the books.

Judge Tashimov refused to discuss his order to destroy the books. "I won't answer any questions by phone," he repeatedly told Forum 18 on 27 February. He then put the phone down.

Bashpayev: Early release rejected

A court in Aktau has rejected an appeal by Muslim prisoner of conscience Kuanysh Ablayevich Bashpayev (born 3 February 1987) to be transferred to a sentence served outside of a jail after serving more than half his jail term.

Bashpayev was arrested in October 2016 when he returned to Kazakhstan from his home in Saudi Arabia on what he intended would be a short visit. Pavlodar City Court No. 2 sentenced him in April 2017, jailing him for four and a half years under the old Criminal Code Article 164, Part 1 ("inciting religious hatred") for speaking about Islam. (http://www.forum18.org/archive.php?article_id=2272)

Imprisoned initially in Pavlodar, camp officials subjected Bashpayev to torture. "No-one has ever been punished for this torture," Bashpayev's lawyer Aiman Umarova told Forum 18 on 1 March.

Under the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Kazakhstan is obliged to arrest any person suspected on good grounds of having committed torture, and to try them under criminal law.

Bashpayev is currently serving his sentence at a labour camp in Aktau in the western Mangistau Region. He has been in solitary confinement there since autumn 2017. A prison official refused to discuss with Forum 18 in December 2018 why he is being held in solitary confinement. (http://www.forum18.org/archive.php?article_id=2435)

"Many prisoners jailed on charges of extremism or terrorism – like Bashpayev - are held in harsher conditions than the verdict prescribes," Umarova complained.

Bashpayev submitted an appeal for early conditional release to Aktau City Court on 14 January 2019. His appeal, seen by Forum 18, notes his six young children (aged between 2 and 12) at home and a wife "burdened by the everyday difficulties". He also speaks of his health problems – including with the back, liver and chest – "caused by prison conditions and as a result of torture inflicted on me by officials of labour camp AP-162/3 [in Pavlodar]".

However, after hearings on 7 and 18 February, Judge Maret Kovrayeva of Aktau City Court rejected Bashpayev's suit, court officials told Forum 18 on 27 February. They refused to explain why she had rejected it.

Bashpayev's lawyer Umarova said that Judge Kovrayeva had referred to the Criminal Code provision allowing individuals jailed on extremism or terrorism charges to be freed conditionally if they promise to help unmask other terrorists or extremists. "If he is sitting in a solitary cell, how can he assist in 'exposing members of a terrorist or extremist group'?" Umarova asked.

Umarova said she was preparing an appeal against the rejection of her client's suit to Mangistau Regional Court. "I don't think they will give him early release – it will be a challenge," she told Forum 18.

Bashpayev's prison address:

Mangistauskaya Oblast

g. Aktau

25 mikroraion

Zdanie No. 49

Uchr. GM-172/10

Bashpayevu Kuanyshu Ablayevichu

Kazakhstan

Mazhenov: Prison transfer as family vows to continue appeals

Muslim prisoner of conscience Dadash Temirgaliyevich Mazhenov (born 28 September 1990) was transferred out of the Investigation Prison in Kokshetau on 21 February, his family told Forum 18.

A Committee for the Criminal Execution System letter of 27 February, seen by Forum 18, identifies the destination as labour camp ICh-167/3 in the southern city of Shymkent. This is nearly 1,200 kms (740 miles) away from Mazhenov's home in Shchuchinsk and will entail long journeys for his family to be able to visit him.

The Special Department at labour camp ICh-167/3 refused to tell Forum 18 on 1 March if Mazhenov has arrived at the camp.

In a case initiated by the NSC secret police, Mazhenov was accused of posting online four talks on Islam by Kuanysh Bashpayev. Burabai District Court jailed Mazhenov in November 2018 for seven years and eight months in a general regime labour camp. Akmola Regional Court went ahead with an appeal hearing on 30 January 2019, despite Mazhenov's decision to withdraw his appeal. The Regional Court left his jail term unchanged. (http://www.forum18.org/archive.php?article_id=2452)

Mazhenov's family have vowed to continue their fight to have his conviction overturned, through the Supreme Court, a review of the investigation, or an appeal to the United Nations human rights bodies. "The whole case was fabricated," a relative insisted to Forum 18. "Whatever a prosecutor demands, no court would reject it."

Mazhenov's new prison address:

g. Shymkent

Temirlanskoe shosse 28

Uchr. ICh-167/3

Kazakhstan

(END)

Full reports on freedom of thought, conscience and belief in Kazakhstan
(<http://www.forum18.org/archive.php?query=&religion=all&country=29>)

For more background, see Forum 18's Kazakhstan religious freedom survey (http://www.forum18.org/archive.php?article_id=2409)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments
(http://www.forum18.org/archive.php?article_id=1351)

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