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KAZAKHSTAN: Three pastors' convictions "an unjust court decision"

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

An Almaty court has jailed three pastors in absentia for between four and five years in a case described by one human rights defender as "complete drivel". New Life Church has been told its problems will end if it pays money to officials or collaborates with the secret police.

Three self-exiled Protestant pastors given long jail terms in absentia for leading New Life Pentecostal Church in Kazakhstan's commercial capital Almaty lost their appeal at Almaty City Court on 1 November. The decision came into force when the appeal verdict was issued in writing on 11 November. The three have said they will appeal to Kazakhstan's Supreme Court in the capital Nur-Sultan.

This latest criminal case was launched in July 2015, and was the third case against the Church or Church leaders brought over the years on a changing range of accusations.

The first two cases – which had heavy involvement of the National Security Committee (NSC) secret police - had been abandoned. The third finally reached one Almaty court in February 2019, only to be transferred the following month to another court (see below).

The pastors were variously accused of founding the Church in 1991 with "criminal intent", and "by means of the technology of psychological and psychotherapeutic influence with the aim of causing psychological harm to the health and stealing others' property by means of deception and abuse of trust .. with the use of information technologies and methods of turning the victims into a state of changed consciousness (trance)". At one point police accused the church of storing weapons. This charge was dropped as the only such item confiscated was an aerosol spray gun freely available on the internet (see below).

In the case of one of the nine "victims", the three pastors were accused of harming her health from six months before she was born and when one of the three pastors was only just 17 years old (see below).

In November 2018 police suggested to current Pastor Ivan Kryukov that the problems could be resolved if New Life Church pays money. "We refused," the Pastor stated. In February 2019 the Church was told that if it collaborated with the NSC secret police it would no longer face problems. "I told them I can't agree to this," Pastor Kryukov told Forum 18. Later in 2019 an official came to the Almaty Church office from the capital and was also in contact by phone. He indicated that officials would not touch the Church's main building "if we're quiet" and "don't go out on the streets" to protest against the verdict in the case of the three pastors. "I told them that we won't go out on the streets, but will defend our rights in court," Pastor Kryukov told Forum 18 (see below).

The case against the three pastors is "complete drivel", Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law commented. "I have read the verdict. It is nonsense" (see below).

On 29 July, Pastor Maxim Maximov was sentenced to five years' imprisonment, and his wife Pastor Larisa Maximova and Pastor Sergei Zaikin each to four years' imprisonment. Pastor Maximov was also banned from leading a religious organisation for one year. Five properties and the money in one bank account were ordered confiscated, even though two of the properties belong to the Church, not to Maximov, and the Church is still using them. The three were also ordered to pay damages to eight alleged victims, as well as court fees. Computers confiscated in raids were ordered confiscated (see below).

The three convicted pastors now live in the United States. Pastor Zaikin told Forum 18 on 14 November that "we still want to return to Kazakhstan".

Pastor Ivan Kryukov – who testified on behalf of the three alongside many other church members in the original trial – pointed out that the Church itself is not a party to the case and is therefore unable to challenge the decision itself. He stresses that the court ordered confiscated two properties belonging to the Church, which it still regularly uses. In addition, three Church buildings –

including the Church building itself - remain under a restraining order imposed in 2016 and Church computers confiscated in the large-scale 2016 raid have not been returned (see below).

An appeal was made against the verdicts, but in its 1 November decision Almaty City Court left the lower court decision unchanged (see below).

The head of the Social Accord Department (whose role includes restricting freedom of religion and belief) at Almaty City Administration, Yergali Kesheke, insisted to Forum 18 that his Department has no complaints about New Life Church. He then claimed not to know that the Church's main building and three other buildings have been under a restraining order since 2016 and that computers confiscated from the Church then have not been returned. He said this is not an issue for his Department (see below).

Pastor Kryukov says attendance at New Life Church's various services on an average Sunday in Almaty is currently about 850.

"Working as one mechanism as in the Soviet Union"

"At this point Kazakhstan's legal system consists of the NSC secret police and its regional departments, the General Prosecutor's office and its regional departments, the Interior Ministry and its regional departments, and the Supreme Court and regional and district courts," Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18 on 14 November.

"All these are working as one mechanism as in the Soviet Union and under strict political control," Zhovtis observed. "The only question: after whom, when, and why does this mechanism plan to go after? After the political opposition, independent journalists, civic activists, or some Islamic groups or non-traditional neo-Christian religious associations, or their members?"

"And the charges will be brought and evidence will be provided only to show some elements of the due process of law, with the predetermined result," Zhovtis commented on the case against the New Life Church pastors.

"This was an unjust court decision"

"This was an unjust court decision," New Life Church's current pastor Ivan Kryukov told Forum 18 after the City Court rejected the pastors' appeal. "There is no proof that the three committed any wrongdoing."

Altynbai Buranbayeva of Almaty Prosecutor's Office, who represented the prosecution at the appeal hearing, refused to discuss anything about the case. She also refused to say if the restraining order on the Church itself and its other buildings will be lifted. "I can't give any information by phone," she told Forum 18 in answer to every question on 13 November.

New Life Church's reputation and property

New Life Church has faced repeated attacks on it through the state-controlled media, although they have lessened in recent years. Official comments about the criminal case against the three pastors since Almaty Police went public with the accusations when officers raided the Church in March 2016 (http://www.forum18.org/archive.php?article_id=2163) have harmed the Church's reputation, with little possibility for its rebuttals of the accusations to be heard.

The conviction of the three pastors in July 2019 had a "big impact" on church members, not only in the Almaty New Life Church but in other New Life congregations around Kazakhstan, a member of a congregation in another city told Forum 18.

In particular, the court's characterisation of Almaty's New Life Church as a criminal enterprise that harms people's psychological health by the use of manipulation and extracts money from church members fraudulently – accusations the Church vigorously rejects – harms the image of the Church, church members told Forum 18.

On 29 July, the day the lower court issued its verdict, the Court website claimed the three pastors held "regular so-called services, during which, using the 'anchoring' method in the audio-kinesthetic and visual-kinesthetic modality and other methods of psychological impact, the victims suffered serious harm to their health, which later developed in the form of a mental illness". The Court statement was widely republished by state-controlled media.

More than three and a half years after the police raid on New Life Church in 2016 (http://www.forum18.org/archive.php?article_id=2163), almost all New Life Church's property remains under a restraining order – even though the Church not the three accused owns the property. This includes the Church's main building with its worship hall, as well as three other properties in Almaty.

Almaty's New Life Church – which remains a registered religious organisation – has not been prevented from opening and running bank accounts.

In addition to the four Church properties under a restraining order, New Life Church states that two of the five properties ordered confiscated from Pastor Maxim Maximov belong not to him but to the Church. Pastor Maximov signed the purchase contract (seen by Forum 18) on 4 February 1993 on behalf of the Church. The Church subsequently used the buildings for a rehabilitation centre.

Similarly, Church-owned computers confiscated during the March 2016 police raid on the Church (http://www.forum18.org/archive.php?article_id=2163) have not been returned.

Altynbai Buranbayeva of Almaty Prosecutor's Office, who represented the prosecution at the appeal hearing in the criminal case against the three pastors, refused to explain to Forum 18 on 13 November how the two properties owned and used by the Church could be ordered confiscated from Pastor Maximov. She also refused to explain why the Church's property remains under a restraining order and how the Church can have this lifted.

The head of the Social Accord Department (whose role includes restricting freedom of religion and belief) at Almaty City Administration, Yergali Kesheke, insisted to Forum 18 on 13 November that his Department has no complaints about New Life Church. He then claimed not to know that the Church's main building and three other buildings have been under a restraining order since 2016 and that computers confiscated from the Church then have not been returned. He said this is not an issue for his Department.

Kesheke added that New Life Church has not asked his Department for help in having the restraining order on its property lifted. Pastor Kryukov told Forum 18 the Church has not appealed to the Department because it has no influence.

Major Aleksei Chapurin of Almaty Police, who investigated the Church and the three pastors, refused to discuss with Forum 18 on 13 November why Church property remains under a restraining order three and a half years after it was imposed when the criminal case was not against the Church.

"It will take a long time to lift the restraining order on the Church's property," Pastor Kryukov told Forum 18.

Bribe or collaboration to end restrictions on Church?

Officials have repeatedly offered to end New Life Church's problems under certain conditions.

Pastor Kryukov said that police officers had suggested to him at a meeting in November 2018 that the problems could be resolved if the Church pays money. "We refused," he added. Others have also told Forum 18 of earlier attempts by officials to extract bribes before Kryukov became Pastor.

Corruption is widespread in Kazakhstan, and Transparency International's Corruption Perceptions Index 2018 ranks the country poorly at 124 out of 175 countries.

In February 2019, officials called the Church and insisted that if it collaborated with the NSC secret police, it would no longer face problems. Church leaders would no longer be held up at the border for intrusive questioning, the officials added. "I told them I can't agree to this," Pastor Kryukov told Forum 18.

Later in 2019 an official came to the Almaty Church office from the capital and was also in contact by phone. He indicated that officials would not touch the Church's main building "if we're quiet" and "don't go out on the streets" to protest against the verdict in the case of the three pastors. "I told them that we won't go out on the streets, but will defend our rights in court," Pastor Kryukov told Forum 18.

Secret criminal cases, raids

Pastor Maxim Maximov founded New Life Pentecostal Church in the then capital Almaty in 1991. It gained state registration and so permission to exist on 9 July 1991, when Kazakhstan was still part of the Soviet Union. It gained re-registration on 19 October 2012 after Kazakhstan imposed compulsory re-registration on all religious organisations after the adoption of the 2011 Religion Law. (http://www.forum18.org/archive.php?article_id=2409) Some of its branches faced difficulties, the branch in Shymkent initially being banned from using its previously registered building and having to move to a new address. (http://www.forum18.org/archive.php?article_id=1599)

In 2000, New Life Church started a Russian-language cable and satellite television channel CNL from its Almaty premises. However, opposition from the state – and police confiscation of its equipment during raids in 2016 (http://www.forum18.org/archive.php?article_id=2163) – meant that the Almaty Church could no longer participate in preparing programming. TV programmes are now prepared in the United States, Russia, Ukraine and elsewhere.

State-controlled media long vilified New Life Church in Almaty and other cities, as well as other religious groups the regime dislikes. (http://www.forum18.org/archive.php?article_id=1123) State-funded "anti-sect centres" such as Perspective in Almaty

described New Life Church at a 28 August 2009 press conference as conducting "commercial activities under the guise of Christian slogans". These state-funded views were uncritically repeated by the state-controlled media.

Such state-funded so-called "anti-sect centres" have long been used to encourage hostility against the exercise of freedom of religion and belief, including by churches such as New Life. (http://www.forum18.org/archive.php?article_id=1568)

Raids took place against New Life and its branches in other cities, as well as attempts to recruit NSC secret police informers. (http://www.forum18.org/archive.php?article_id=1325) Between October 2009 and December 2010 the Financial Police in Almaty and Almaty NSC secret police conducted extensive investigations into New Life Church. No criminal case was brought, though both bodies held "evidence" that was later used in other cases.

Between November 2012 and February 2014, the tax authorities investigated New Life Church over why it had not paid tax on donated Bibles. The Church was fined.

In July 2013, police began investigating a criminal case that the Church had harmed an individual's health. The NSC eventually dropped the case. Another criminal investigation was launched in October 2013 on similar charges, which appears also to have been closed down.

Criminal accusations

Police in the commercial capital Almaty opened the most recent known criminal case against Almaty's New Life Church on 29 July 2015. The Church was not informed of the case until police and other state agencies raided five church-owned buildings and the home of the six leaders of New Life Pentecostal Church in Kazakhstan's commercial capital Almaty on 25 March 2016, when the Church was meeting to mark the important Christian commemoration of Good Friday. (http://www.forum18.org/archive.php?article_id=2163)

In July 2016, following the raids, an Almaty court froze the Church's bank accounts, according to the decision seen by Forum 18. These were unfrozen later in 2016. In 2017 they were again briefly frozen.

The case was opened on the initiative of one of the "victims", who had left the Church in 2007, according to case materials. The NSC secret police suggested that she take her complaint to the state-funded Perspective anti-sect centre, which then found other complainants. Another state-funded "anti-sect centre" commented on the March 2016 Good Friday raids that "New Life is clearly a sect, which propagates ideas foreign to Kazakhstan's values and mentality". (http://www.forum18.org/archive.php?article_id=1568)

On 20 September 2016, according to case materials, the head of the NSC secret police in Almaty, Nurlan Mazhilov, and police and tax office officials created a 15-strong inter-departmental investigative group to find proof that New Life Church had committed crimes.

July convictions, jail terms

Prosecutors finally handed the 53 volumes of the criminal case against Pastors Maximov, Maximova and Zaikin to Almaty's Almaty District Court on 21 February. However, on 11 March Judge Ernar Kasymbekov at the court handed it to Almaty's Specialised Inter-District Court for Minors, as one of the "victims" had been a minor when the alleged "crimes" had taken place (indeed, she had not been born when prosecutors initially alleged the "crimes" had begun).

The trial began at the Specialised Inter-District Court for Minors on 4 April under Judge Gulshakhar Chinibekova, according to court records.

"I have read the verdict. It is nonsense"

On 29 July, Judge Chinibekova found both Pastor Maxim Maximov and Pastor Sergei Zaikin guilty under 1997 Criminal Code Article 103, Part 2 ("Deliberately causing severe harm to health"), 2014 Criminal Code Article 190, Part 3 ("Fraud"), and 1997 Criminal Code Article 337, Part 1 ("Creation or leadership in the activity of illegal social and other associations").

Judge Chinibekova found Pastor Maximov's wife Pastor Larisa Maximova guilty under the first two Criminal Code charges as her two colleagues, as well as 1997 Criminal Code Article 337, Part 3 ("Active participation in the activity of illegal social and other associations").

The Judge sentenced Pastor Maximov to five years' imprisonment, and Pastor Maximova and Pastor Zaikin each to four years' imprisonment, according to the verdict seen by Forum 18.

The case against the three pastors is "complete drivell", Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Radio Free Europe's Kazakh Service on 26 September. "I have read the verdict. It is nonsense."

On 29 July, the Judge sentenced Pastor Maximov to five years' imprisonment, and Pastor Maximova and Pastor Zaikin each to four years' imprisonment, according to the verdict seen by Forum 18.

Judge Chinibekova also banned Pastor Maximov from leading a religious organisation for one year. She ordered confiscated five properties and the money in one bank account, even though two of the properties belong to the Church, not to Maximov. The three were also ordered to pay damages to eight alleged victims, as well as court fees. Computers confiscated in raids were ordered confiscated.

City Court rejects appeal

The Almaty-based lawyer Aiman Umarova lodged an appeal against the 29 July convictions of Maximov, Maximova and Zaikin to Almaty City Court on 12 August. On behalf of her clients she vigorously refuted all the allegations against them.

Umarova is a human rights lawyer who does not belong to the Church, and who has defended Muslim prisoners of conscience jailed for exercising freedom of religion and belief. These include Kuanysh Bashpayev jailed for four and a half years in 2017 (http://www.forum18.org/archive.php?article_id=2457), and Saken Tulbayev jailed for four years eight months in 2015. (http://www.forum18.org/archive.php?article_id=2108)

The three pastors' appeal (seen by Forum 18) notes that the prosecution made no attempt to prove that the three pastors established the church "with criminal intent". They said it was unlikely that anyone would be able to keep an individual under psychological influence for a period of eight to 10 years as the prosecution claimed had been the case. "These victims would not have made any statements to date had they not been forced to do so by law enforcement officials," they maintained.

The appeal notes that, questioned during the investigation, the "experts" who had examined the alleged "victims" of the three pastors admitted that "methodology for conducting examinations had not been developed up to now and research method was determined for each of the victims on an individual basis". The "experts" could not prove that the three pastors had caused their psychological state. The appeal notes that "hundreds of thousands" of people had attended the Church during this time.

The appeal points out that the case followed that of Yerzhan Ushanov, Pastor of New Life Church in Taraz in the southern Zhambyl Region, for praying for someone's health in May 2011. In a NSC-initiated case, he was convicted in September 2011 under Criminal Code Article 111, Part 1 ("causing severe damage to health due to negligence") and given a heavy fine. Only in April 2012 was he finally acquitted by the Supreme Court. (http://www.forum18.org/archive.php?article_id=1705)

The three pastors' appeal also notes that the prosecution did not prove that the nine "victims" had handed over donations to the Church because of the psychological pressure from the three pastors.

The appeal questions why the "victims" wrote their primary statements to the NSC secret police, not to the ordinary police. "It is puzzling that the NSC (Department for the Struggle against Extremism, Separatism and Terrorism) initiated this case," the appeal states. "It seems that the NSC secret police sees Protestants as a threat to the security of the country and considers them possible terrorists. At the same time, it is well known that there has never been terrorism and extremism among Evangelical Christians. This case is evidence of persecution and violation of the rights of Evangelical Christians on religious grounds."

The appeal claims police investigator Major Aleksei Chapurin fabricated the case with input from a range of other NSC secret police and ordinary police officers.

The lawyer Umarova also notes in the appeal that not once did investigators seek to find out the whereabouts of her clients or to put questions to them. She noted that "their purpose was clear - to ban me from this case in any way".

Umarova also pointed out the lack of time to prepare the defence case. "Over many years the investigator and prosecutors had the opportunity to fabricate the case, but when I suddenly learned that the case was already in court, I was given only a few days to study those 53 volumes," she noted in the appeal. "It also shows that my clients are not given an equitable fair opportunity to defend themselves against false artificial accusations."

Appeal hearings began at Almaty City Court on 2 October, according to court records.

At the appeal hearing, Prosecutor Altinai Buranbayeva of Almaty Prosecutor's Office insisted that the verdict should remain unchanged, as the three pastors' "crimes" had been proved in the lower court.

The lawyer for the alleged "victims", Bolat Omarov, insisted that the three pastors' guilt in causing serious moral and financial harm had been proved. He too called on the court to reject their appeal. Several "victims" asked for the compensation to them to be increased.

The defence lawyer Umarova told the court that proof of any harm caused by the three had not been proven and called for the court to uphold the appeal. She also pointed to numerous procedural violations in the case.

On 1 November, a panel of three judges at Almaty City Court chaired by Judge Yerzhan Kenenbayev rejected the appeal by the three pastors. The Judges issued their written verdict (seen by Forum 18) on 11 November. The decision came into force when the written verdict was issued.

Following the oral delivery of the verdict on 1 November, Umarova told Kazis Toguzbayev of Radio Free Europe's Kazakh Service – who was present at the hearing – that she felt the defendants should lodge a further appeal but that it would be their decision. The lawyer Omarov told Toguzbayev that he would not be appealing further on behalf of the alleged "victims".

Appeals to Supreme Court, United Nations?

Following the rejection of their appeal, all three pastors said they intended to appeal to Kazakhstan's Supreme Court in the capital Nur-Sultan. They have until 11 November 2020 to lodge any appeal.

Pastor Maximov also insisted that, if they lose in the Supreme Court, they would lodge an appeal to the United Nations human rights mechanisms in Geneva. (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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