

15 July 2005

KAZAKHSTAN: Unregistered religious activity declared illegal, missionary activity restricted

By Igor Rotar, Forum 18

New "national security" amendments signed by President Nursultan Nazarbayev on 8 July have brought in tight new restrictions on religious activity that violate Kazakhstan's international human rights commitments. All unregistered religious activity is declared illegal and those leading or taking part in unregistered religious meetings can be fined. Missionary activity by local people and foreigners is illegal unless missionaries are from a registered religious organisation and have individual registration from the authorities of the local area where they operate. Literature for use by missionaries requires prior censorship from local authorities. The OSCE had urged that the ban on unregistered religious activity should be excluded from the law. "Unfortunately this was not done," an official of the OSCE mission in Almaty told Forum 18 News Service. The OSCE is preparing a detailed critique of the "overly restrictive" new law.

In defiance of its international human rights commitments, Kazakhstan has attempted to ban all unregistered religious activity and has introduced fines for leaders and participants in such activity, Forum 18 News Service has learnt. Kazakhstan has also restricted missionary activity to licensed missionaries only whose literature requires prior censorship, with fines – and, for foreign nationals, deportation - for those who violate the restrictions.

The controversial changes to the Religion Law – which echo those taken in neighbouring Uzbekistan in 1998 – came in the sweeping new law introducing changes and amendments to legislation allegedly relating to "national security," approved by parliament on 29 June and signed on 8 July by Kazakhstan's President Nursultan Nazarbayev. The Law came into force on its publication in Kazakh-language newspapers on 13 July and in Russian-language newspapers on 14 July.

Under scrutiny in both houses of parliament since February, the Law has prompted strong criticism from international and local human rights organisations, including the Organisation for Security and Co-operation in Europe (OSCE). Given the widespread criticism, it is possible the Kazakh authorities timed the announcement that they would not be deporting high-profile asylum-seeker and eye-witness of the Andijan massacre Lutfullo Shamsudinov back to his native Uzbekistan as a way to distract attention from the announcement that President Nazarbayev had signed the Law.

An official of the OSCE office in Almaty, who preferred not to be named, told Forum 18 on 14 July that the organisation's Office for Democratic Institutions and Human Rights in Warsaw was preparing a detailed critique of the "overly restrictive nature" of the new Law which would shortly be published (see 18 April 2005 OSCE comments in PDF form at <http://www.osce.org/item/19101.html>).

The adoption of these sweeping restrictions on religious communities, political parties, the media and non-governmental organisations – which came as the OSCE was holding a conference in Vienna on Human Rights and the Fight Against Terrorism (see press release at <http://www.osce.org/item/15703.html> and Final Report in PDF form at <http://www.osce.org/item/16203.html>) – will damage Kazakhstan's hopes of becoming OSCE Chairman-in-Office in 2009.

The new Law amends a range of other laws and codes, including the Civil Procedure Code, the Criminal Code, the Criminal Procedures code, the Code of Administrative Offences and the laws on freedom of religion and of religious associations, operational investigative activity, the media, non-commercial organisations and political parties.

Although Muslims and the Russian Orthodox have broadly supported the Law, other smaller religious communities have been highly concerned (see F18News 13 May 2005 http://www.forum18.org/Archive.php?article_id=561). Particularly worried have been the Council of Churches Baptists, who reject registration in principle in all the former Soviet republics where they operate. One church member told Forum 18 on 13 July that congregations in Kazakhstan have written numerous appeals to President Nazarbayev and other officials in recent months calling on them not to adopt the new Law. They point out that even when registration was not compulsory, their pastors have been fined for leading unregistered communities.

Article 4 of the amended Religion Law has a new fourth section that forbids the activity of unregistered religious organisations. A new article, 4-1, requires all citizens and foreigners engaged in missionary activity to register before they conduct such activity. The

article specifically bans all missionary activity by any individual who does not have such registration.

A new article, 4-2, sets out the way missionaries register with the local authorities annually: the potential missionary has to present the local authorities with proof that they represent a registered religious organisation which has specifically engaged them to do missionary activity in the local area and all literature, video and other materials that the missionary intends to use for local officials to censor. Any new materials to be used after the missionary already has registration also have to be submitted to the local authorities for censorship.

A new article, 10-1, bans all activity by religious organisations whose activities have been suspended or banned by a court.

The new Law also made corresponding changes to the Administrative Code, adding a new article, 374-1, to punish "leadership of and participation in the activity of public and religious associations that have not been registered in accordance with the law of the Republic of Kazakhstan, as well as financing their activity". Under this article:

- The leadership of the activity of public and religious associations that have not been registered in the proper manner, and also those organisations whose activity has been halted or banned will attract a fine amounting to 100 times the minimum monthly wage, currently 971 Tenge [47 Norwegian Kroner, 6 Euros, or 7 US Dollars].
- Participation in the activity of public and religious associations that have not been registered in the proper manner and also those organisations whose activity has been halted or banned will attract a fine amounting to 50 times the minimum monthly wage.
- The financing of the activity of public and religious associations that have not been registered in the proper manner and also those organisations whose activity has been halted or banned will attract a fine amounting to 200 times the minimum monthly wage.

However, Kazakh law professor Professor Podoprigora - who was a keynote speaker at the OSCE conference, as was John Kinahan of Forum 18 - and Aleksandr Klyushev, head of the Association of Religious Organisations of Kazakhstan both subsequently noted that these "national security" amendments, to require all religious activity to be registered, contradict themselves (see F18News 4 August 2005 http://www.forum18.org/Archive.php?article_id=625).

Additions have also been adopted to Article 375 of the Administrative Code, an article that already punishes violations of the Religion Law (including refusal to register a religious organisation). According to the new addition, "Missionary work carried out by citizens, foreign citizens and persons who have no citizenship, without the appropriate registration, will attract a fine of up to 15 times the monthly wage of a citizen, while foreigners and persons without citizenship will be fined up to 15 times the monthly wage and will be expelled beyond the borders of the Republic of Kazakhstan."

Article 375 also now punishes leaders of religious organisations that break any law with fines of up to thirty times the minimum monthly wage, while the organisations themselves can be fined up to 200 times the minimum monthly wage and banned for up to six months. Religious organisations that "systematically carry out activity in defiance of their statute" or refuse to stop activities that led to their being suspended face fines of up to 300 times the minimum monthly wage and a total ban on their activities, while leaders of such organisations can be fined up to 40 times the minimum monthly wage.

The OSCE official told Forum 18 that the organisation had recommended that the Religion Law amendment banning unregistered religious activity should be excluded. "Unfortunately this was not done," the official declared. "We reckon that the parliamentary deputies only took on board one of our recommendations, excluding the amendment that would have granted the prosecutor's office the right to halt the activity of media outlets, political parties and religious organisations before a court decision had been reached."

One activist who has been involved in lobbying parliament during the adoption process takes some comfort from the exclusion of a few of the harshest measures in earlier drafts. Aleksandr Klyushev, of the Association of Religious Organisations of Kazakhstan, pointed out that the definition of missionary activity has been changed. In the initial draft Law, missionary activity was defined as "promoting a faith by means of religious proselytising activity".

"Effectively, every individual believer fell into this definition," he told Forum 18 on 14 July. "But we have managed to ensure that missionary activity is defined in the Religion Law as teaching and promoting a religion by means of religious proselytising preaching which is not included in the statute of a religious organisation that is active in Kazakhstan." Klyushev hopes that it will not now be possible to see representatives of any faith as missionaries, even if they have just one registered group in Kazakhstan.

Klyushev also voiced some satisfaction that although the initial amendment to Article 5 of the Religion Law stated that "the religious education of a child must not harm his all-round development or physical and moral health", pressure from religious believers has ensured that the term "all-round development" has been omitted. "The phrase 'all-round development' could be applied very widely, even, for example, to an atheist education, and so we are very pleased we have managed to exclude it."

At the same time, Klyushev declared himself extremely dissatisfied at the introduction of Article 374-1 and the amendments to Article 375 of the Administrative Code. "Even before President Nazarbayev signed this Law, local officials started treating it as

already effective and started persecuting Protestants on the basis of the changes to the Administrative Code," he told Forum 18 (see F18News 30 May 2005 http://www.forum18.org/Archive.php?article_id=572).

The authorities have long sought to restrict religious rights by tightening the 1992 Religion Law. A harsh new Religion Law was adopted by parliament in 2002 (the eighth such attempt) and approved by President Nazarbayev. However, under pressure from international and local human rights organisations, the Constitutional Council ruled in April 2002 that that Religion Law contradicted the constitution and it was withdrawn.

For a personal commentary on the legal moves to seriously restrict religious freedom in Kazakhstan under the guise of "national security", see F18News http://www.forum18.org/Archive.php?article_id=564

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=249

A printer-friendly map of Kazakhstan is available at
><http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=kazakh>

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY