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KAZAKHSTAN: Fines on unregistered religious communities stepped up

By Igor Rotar, Forum 18

A series of raids on Baptist churches that refuse on principle to register with the authorities and fines imposed on their leaders under the administrative code have highlighted continuing attempts by local officials to punish unregistered religious activity, although Kazakhstan's religion law does not make unregistered activity illegal. Jehovah's Witnesses – who do not refuse registration – report that they have seen 28 administrative cases over the past year against communities that have been denied registration on various pretexts. Ninel Fokina of the Almaty Helsinki Committee told Forum 18 News Service that the religion law has greater weight than Article 375 of the administrative code – under which the fines have been imposed – and therefore officials have no right to "persecute" believers for refusing to register a religious community.

On 19 February two police officers, captain A. Yesengaliyeva and senior lieutenant Tulebek Zhumagulov, arrived at a prayer house belonging to an unregistered Baptist church in the town of Aktobe in northern Kazakhstan before the start of the service. "During a one-hour discussion, they compiled a report about infringements of the administrative law under article 375, part 1 of the Administrative Code of Kazakhstan, which concerns the holding of services in the absence of a community's registration with the justice authorities," reported a 26 February statement from the Aktobe church received by Forum 18 News Service. "Officials of the law enforcement agencies drew up a statement about our refusal to register and in the presence of two witnesses drew up a document about our refusal to sign these statements."

Forum 18 has learnt that this is far from the only case of pressure on Baptists who refuse to register. On 16 February local police officers attended services of Baptist churches in the villages of Martuk and Progress on the outskirts of Aktobe and also questioned why they were not registered with the justice authorities. On 25 February the church's pastor Vasili Kliver was detained outside his home and forcibly taken to the town's procuracy by the same Yesengaliyeva, this time accompanied by senior lieutenant M. Bakeshev. At the procuracy, Kliver was served with an order to register the community and was accused of violating article 375, part 1 of the administrative code.

Baptists who refuse to register their churches are also being pressured in other regions of Kazakhstan. According to a 3 March statement from local Baptists passed to Forum 18, Viktor Zinovev, leader of a Baptist church in the town of Ridder (formerly Leninogorsk, in Eastern Kazakhstan region), was brought before an administrative court on 21 February for refusing to register the church. The court resolved "to subject Viktor Anatolyevich Zinovev to an administrative punishment in the form of a fine of 4,860 tenge (240 Norwegian kroner, 30 Euros or 32 US dollars), as well as cessation of the activity of the religious association for up to six months". Zinovev refused to pay the fine because he did not believe he was guilty of any offence. The judge Klavdiya Pavlova, citing the Criminal Code, made it clear to him that he would be held to criminal account for his failure to observe the court's decision.

The fine imposed on Zinovev is the latest in a long-running attempt to punish him for leading the unregistered congregation. On 13 February 2002 he was tried in an action brought against him by the town's public prosecutor I. Kovalev, who had asked that Zinovev be prosecuted for refusing to register his community. The court resolved that should the infringement of the law not stop within two weeks, services would be ordered halted. On 11 March 2002 another court case was brought against Zinovev. Judge Mukhtar Tokzhanov and assistant public prosecutor D. Nugmanov demanded that Zinovev register the community, but Zinovev and fellow Baptist Aleksei Mamontov explained that according to the law, registration was the right of believers, not an obligation. In spite of this, the judge ruled that the church's activity should be halted until it gained registration. In addition, the assistant public prosecutor stressed that if the Baptists continued to meet together, "administrative measures" (fines) would be taken against them and a criminal case might even be brought against them.

In yet another case, Baptists from the village of Yevgenevka in Pavlodar region reported on 5 February that court executors had arrived on 1 February at the home of Oleg and Anastasia Voropaev – where a congregation meets for worship – and begun seizing personal possessions to meet a fine of 7750 tenge imposed on Oleg Voropaev by Aksu district court on 27 November 2001 for refusing to register the congregation. After taking items including 14 plates and a tea service, court assessor L. Soloveva decided not to seize a calf. "You're lucky we've got nowhere to keep it," she told the family. Voropaev, who has refused to pay the fine, claims

he was only informed of the court judgment on 25 January 2002. It remains unclear why it took more than a year for court executors to take further action.

All these congregations belong to the International Council of Churches of Evangelical Christians/Baptists, which rejects registration on principle in all the former Soviet republics where it operates.

However, it is not just unregistered Baptist congregations that are facing such pressure. Jehovah's Witnesses do not reject state registration, but many congregations in Kazakhstan have been denied registration arbitrarily by justice officials. "In all, 28 administrative cases have been brought against us over the past year in those parts of Kazakhstan where our communities are not registered," Anatoli Melnik, a member of the ruling council of Jehovah's Witnesses in Kazakhstan told Forum 18 on 16 March. "Yet we do not refuse to be registered: local officials refuse us registration on various pretexts."

Under Kazakhstan's law on religion, registration is not compulsory. At the same time, Article 375 of the administrative code contradicts the law on religion by setting out penalties for unregistered religious activity: "Refusal by leaders of religious associations to register associations with the state administration agencies, implementation by a religious association of activity that contradicts its aims and tasks as set out in its statute, participation in the activity of political parties and the provision of financial support to them, infringement of the rules on holding religious events away from the place of location of the religious association, organisation and conduct by ministers of the cult and members of religious associations of special children's and young people's meetings and groups that bear no relation to the operation of the cult and the forcing of citizens to carry out religious rituals or to take part in a different religious activity - will result in a warning or a fine of up to 20 times the monthly financial unit on the leaders of the religious association or up to 100 times the monthly financial unit on a juridical person, and a halt to activity for a period of up to six months and/or a ban on its activity."

Human rights activist Ninel Fokina, who chairs the Almaty Helsinki Committee, told Forum 18 on 10 March that the religion law has greater weight than Article 375 of the administrative code and therefore officials have no right to "persecute" believers for refusing to register a religious community.

Early last year the lower and upper chambers of parliament approved a new religion law which restricted individuals' religious freedoms. In particular, article 11 of the draft law repeated practically word for word Article 375 of the administrative code and forbade the activity of unregistered religious organisations. However, when in April 2002 the Constitutional Council rejected the draft law that had been passed by parliament, President Nursultan Nazarbayev refused to approve it. Thus, the president obliquely confirmed that registration of religious communities is not compulsory.

However in practice officials widely believe that registration of a religious community is compulsory. Speaking to Forum 18 on 12 March, the chairman of the secretariat of the government's Council for Relations with Religious Organisations Amanbek Mukhashev insisted that it was necessary for a religious association to be registered. It is also interesting that Mukhashev based his view not on Article 375 of the administrative code, but on the current law on religion (which contains nothing about the compulsory registration of religious associations).

"Under the Kazakh legal system, the administrative and criminal codes hold greater weight than laws. Therefore formally Article 375 outranks the law on religion," Roman Podoprigora, an Almaty-based lawyer who specialises in religious matters, told Forum 18 on 13 March. "But at the same time I do not believe that because of Article 375 the registration of a religious community is compulsory. The very phrase 'refusal to register' can be interpreted very differently. For example, can one say that believers are knowingly refusing to register if they simply have no money to pay the official fee?!"

Fokina argues that the current pressure by the authorities on believers who refuse to register reflects "the whim of certain provincial officials". "Inertia holds sway, and many local officials have not yet managed to take in the fact that the new draft law on religion has not been adopted," she told Forum 18. "I believe the situation will improve soon." She said the deputy head of the presidential administration Igor Rogov met the Baptists about a month ago and assured them that believers would not be persecuted for refusing to register.

The head of the Almaty-based Emmanuel Protestant society Roman Dudnik is also not inclined to exaggerate the problems for unregistered communities. He too told Forum 18 he believed such incidents reflected the initiative of provincial officials.

Despite the administrative cases brought against Jehovah's Witnesses whose congregations have been denied registration, Melnik also downplays the problems. "I do not believe that the situation of believers in Kazakhstan is very difficult," he told Forum 18. "Very often we manage to achieve justice through the courts. We win legal cases and manage to get registered. Therefore I would not say that the situation of believers is deteriorating."

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