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KYRGYZSTAN: Legal status applications almost impossible

By Mushfig Bayram, Forum 18 (https://www.forum18.org)

Although unregistered religious activity in Kyrgyzstan is now banned, against international human rights standards, religious communities also cannot gain legal status, Forum 18 News Service has learnt. However, two mosques do appear to have been registered. The State Commission for Religious Affairs (SCRA) says that religious communities must wait for the Regulations to apply a restrictive new Religion Law, which came into force in January 2009. SCRA officials told Forum 18 that "the Regulations have been prepared but not signed into force." Meanwhile, SCRA officials have contradicted themselves on whether or not existing registered communities need to be re-registered. Officials claim to have made the text of the Regulations available for public discussion, although no-one who Forum 18 has spoken to – apart from officials – has seen the text. For the proposed controversial new Religious Education Law, officials claimed to have invited some named religious communities to a roundtable discussion, although the same religious communities told Forum 18 they were unaware of any invitation. Some Protestant churches have decided to protest at the restrictions in the Religion Law by refusing to apply for registration.

Although unregistered religious activity is now banned under the restrictive new Religion Law which came into force in January 2009, religious communities still cannot gain legal status, Forum 18 News Service has learnt. The State Commission for Religious Affairs (SCRA) says that religious communities must wait until the Regulations to apply the New Law are in place. SCRA officials told Forum 18 that "the Regulations have been prepared but not signed into force." Meanwhile, SCRA officials have given Forum 18 contradictory information on whether or not existing officially registered communities will need to be re-registered.

Although the officials said that the text of the Regulations enacting the Law has been made available in gov.kg, Kyrgyzstan's state web portal, for public discussions for "more than a month," Forum 18 could not find the text of the Regulations in the web portal. SCRA officials failed to respond to Forum 18's request to receive the text of the Regulations.

Despite widespread protests by religious communities and human rights defenders, the controversial new Religion Law came into force on its official publication on 16 January. Officials have claimed that some provisions will be amended, but this has not happened (see F18News 27 May 2009 http://www.forum18.org/Archive.php?article_id=1301).

For several years before the new Law was adopted, registration applications were rejected as officials insisted communities wait for the new Law (see F18News 28 May 2009 http://www.forum18.org/Archive.php?article_id=1302). Religious communities have also complained that the authorities are using extra-legal property Regulations as an excuse to avoid registering them (see F18News 21 August 2009 http://www.forum18.org/Archive.php?article_id=1338).

A group of local Protestant churches have made a joint decision not to apply for re-registration even if they are required to do so, several Protestant leaders told Forum 18 in early November.

What will happen if communities won't register or re-register?

Lack of registration now potentially has serious consequences. The Law's Article 8 bans all unregistered activity and subjects it to prosecution (see F18News 5 November 2008 http://www.forum18.org/Archive.php?article_id=1213).

Communities of Protestant Christians, Hare Krishna devotees and Ahmadiya Muslims have all been ordered by the authorities to stop meeting for worship (see F18News 13 August 2009 http://www.forum18.org/Archive.php?article_id=1336).

Asked what will happen to religious communities which are unable or do not want to register or re-register, Kumar Dushenbaev, the SCRA official in charge of registering religious communities, told Forum 18 on 28 October from Bishkek: "We will deal with them in accordance with the Law of Kyrgyzstan." He would not specify what actions the state authorities would take.

Almost no religious organisations registered since Law's adoption

Dushenbaev of the SCRA told Forum 18 that as of late October no new religious communities had been registered since the adoption of the new Religion Law. "We have not been registering new communities, because the Regulations to apply the law have

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not been signed into force," he explained.

Even if religious communities could now submit applications, groups without registration face much tougher conditions which few can meet. For instance, Jehovah's Witnesses and many Protestant churches complained to Forum 18 that they cannot gather the 200 adult citizen founding members now required before each congregation can apply for registration.

Hare Krishna devotees had told Forum 18 earlier in August that they are not even intending to "bother the authorities on anything soon in the near future" since they were "summoned and pressured" by the National Security Service (NSS) secret police when they applied for registration in earlier years (see F18News 13 August 2009 http://www.forum18.org/Archive.php?article_id=1336).

However, Kubat Imarov, Assistant to Rahmatulla Egemberdiyev, Deputy Head of Kyrgyzstan's State-backed Muslim Board, told Forum 18 on 13 November that two new mosques - Ismet-Kagyr and Agturpak - in Batken region's Kadamjay district were registered by the SCRA two days earlier. He could not explain to Forum 18 how it was possible to register the mosques while non-Muslim communities have been told to wait until after the Regulations were enacted. Asked if the mosques had collected 200 signatures, he claimed: "This rule applies only to medreses not mosques."

Is re-registration necessary?

Unlike in other countries of the region, Kyrgyzstan's new Religion Law does not specifically demand re-registration for all religious communities. However, Article 30 point 3 of the new Law points out that "charters and other founding documents of religious organisations and missions are effective only in that part, which is not in contradiction to this Law." Article 9 point 3 declares that "there shall be no norms in the charter of a religious organisation or mission contravening Kyrgyzstan's Constitution or Law." Officials had apparently hoped that this de facto re-registration demand would not be noticed (see F18News 5 November 2008 http://www.forum18.org/Archive.php?article_id=1213).

Kanybek Osmonaliev, Head of the SCRA, and his Deputy Kanatbek Murzakhalilov have given Forum 18 contradictory information on whether religious communities registered under the old Religion Law will need to re-register. In late October Osmonaliev assured Forum 18 that "there will be no re-registration since the law is not retroactive".

However Murzakhalilov, giving his opinion of the Religion Law, told Forum 18 that religious communities which need to make changes to their charters in order to bring them into harmony with the Law will need to be re-registered. Murzakhalilov did not say whether all the registered communities will need to re-register.

Zainiddin Kurmanov, a Parliamentary Deputy who was one of the initiators of the new Religion Law, told Forum 18 on 13 November that religious communities whose charters are not in accordance with the Law "must necessarily" amend their charters, which, in its turn, "definitely" entails re-registration.

Forum 18 notes that Article 12 Part 1 of the Law on State Registration of Legal Persons and Branches (Representations), which came into force on 1 April 2009, specifies that religious organisations are among those that require re-registration if their statute is amended.

The authorities have in the past required registered religious communities to make changes to their charters to bring them in harmony with the Religion Law (see eg. F18News 13 August 2009 http://www.forum18.org/Archive.php?article_id=1336). This in turn, in the opinion of many religious communities, will require re-registering the amended charters.

Commenting on the contradictory remarks from SCRA officials on whether or not re-registration will be necessary, Father Igor Dronov of the Russian Orthodox Church in Bishkek told Forum 18 on 11 November: "I tend to believe Osmonaliev since he is the Head of the State Commission." He added that he believed that the Orthodox will not need to re-register as the law is not retroactive.

His view was echoed by Imarov of the Muslim Board, who told Forum 18 that already registered mosques will not need re-registration.

Jehovah's Witnesses lawyer Mikhail Kokhanovsky told Forum 18 from Bishkek that his organisation will not need to re-register since "their charter is in harmony with the New Law".

One Protestant leader from Bishkek, who asked not to be identified, explained to Forum 18 that "in fact all the communities will need to re-register since they will all need to make changes to their charters." He gave the example that under the old Law 10 founding members were needed but the new Law requires having 200 founding members.

Murzakhalilov said that there will be no deadline for re-registration process. "It will not be a hassle though, we will re-register them no problem," he claimed.

Decision to protest by not registering

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Aleksandr Shumilin of the Baptist Union told Forum 18 on 4 November that "all the evangelical churches [of Kyrgyzstan] have made a unanimous decision not to apply for re-registration or register their new congregations."

"First of all the Bible tells us to share the good news with all people," Shumilin said giving the reasons for the decision. "Why should we agree with the new Law, which does not allow us to freely share the good news?" he asked. "Second of all to register our many un-registered congregations we need to give the names and personal data of 200 members as founders, which we will not do."

Several Protestant leaders, including Bishop Alfred Eicholz of the Lutheran Church, confirmed the joint decision to Forum 18.

A Protestant leader from Bishkek told Forum 18 that the agreement between the group of Protestant churches was "achieved orally but if it is necessary all the churches will sign a written paper" of refusal to register or re-register.

"If the requirements of the New Law were feasible we should have no problems re-registering," Bishop Eicholz told Forum 18. "But for instance notarising 200 signatures of church members and giving their personal data to the State Commission is not feasible."

Have Regulations enacting Law been published?

Murzakhalilov, Deputy Head of the SCRA said that based on the new Law on By-Laws adopted in August, any Regulations to apply new Laws must be publicly discussed for a month before being signed. "So we prepared the Regulations to the new Religion Law and they were published in the state web portal for public comments," he told Forum 18 on 11 November from Bishkek.

Asked if he could provide Forum 18 with the link to the text of the Regulations in the web portal or the text itself, Murzakhalilov responded: "It is there in the portal. I don't understand how you cannot find it while everybody else can easily do so." Despite a repeated request to the SCRA, Forum 18 has received no response.

Father Dronov of the Russian Orthodox Church, Bishop Eicholz of the Lutheran Church, and several other Protestant Church leaders have told Forum 18 that they have not seen the Regulations published nor have they received the text of the Regulations to make comments.

Bishop Eicholz told Forum 18 that he believes the Regulations are not even ready. "Although we have tried but have not been able to obtain the text of the Regulations from the State Commission so far," he told Forum 18 on 12 November.

"The State Commission promised to publish the Regulations but until recently they had not done so," Father Dronov told Forum 18.

"We have not seen those Regulations," the leader of a Protestant Church in Bishkek, who wished to remain unnamed for fear of reprisals from the authorities, told Forum 18 on 11 November. "Even if they were published somewhere, it would be a formal step of the State Commission. Our voices will not be heard anyway."

Told that many religious communities were not aware of the publication, Sharsheke Usenov, Head of the Legal Support Department of the SCRA, told Forum 18 on 11 November: "We have announced about it in the media and at press conferences." Asked if he could even say when this was announced, he said, "I don't remember now."

This lack of openness mirrors a similar official attitude over the controversial proposed new Religious Education Law. Only some religious communities have been invited to discuss the draft text and religious communities were only given one week to submit comments. The SCRA has so far refused to allow the legal review it requested from the Organisation for Security and Co-operation in Europe (OSCE) to be published (see F18News 6 November 2009 http://www.forum18.org/Archive.php?article_id=1373).

When will Regulations be signed?

None of the several SCRA officials Forum 18 talked to could say when the Regulations will be signed. "The State Commission itself is going through structural changes so I cannot tell you when it will happen," Murzakhalilov explained.

However, Usenov said that the signing should take place soon. "I can't say how soon it will happen though," he told Forum 18. "The religious communities have had more than a month to respond, and it cannot be put on the back burner for long." (END)

For background information see Forum 18's Kyrgyzstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=222.

More reports on freedom of thought, conscience and belief in Kyrgyzstan can be found at http://www.forum18.org/Archive.php?query=&religion=all&country=30.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be

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found at http://www.forum18.org/Archive.php?article_id=1351.

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

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