FORUM 18 NEWS SERVICE, Oslo, Norway
https://www.forum18.org/
The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

21 October 2011

KAZAKHSTAN: Application to join Venice Commission on day laws violating human rights commitments signed

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

Kazakhstan's President Nursultan Nazarbaev signed two laws violating international human rights commitments the same day the country applied for full membership of the Council of Europe's Commission for Democracy through Law, or Venice Commission, Forum 18 News Service notes. Nazgul Yergaliyeva of the Legal Policy Research Centre in Almaty told Forum 18 that Kazakhstan "should demonstrate in practice that it adheres to the fundamental values of the rule of law, human rights and democracy, which are the founding principles of the Venice Commission". Vyacheslav Abramov of Freedom House commented that if the application is accepted, "it will be a clear signal to Kazakhstan that it can continue violating human rights". Meanwhile the government's Agency of Religious Affairs (ARA) claims it has revoked a ban on a visit by an Islamic author, Imam Shamil Alyautdinov of Moscow's Memorial Mosque. However the ARA insists that the imam cannot give any book presentations in bookshops or universities, as this is banned under the new Religion Law.

Kazakhstan's President Nursultan Nazarbaev signed two laws violating his country's international human rights commitments the same day (11 October) the country applied for full membership of the Council of Europe's Commission for Democracy through Law, or Venice Commission, Forum 18 News Service notes. Local human rights defenders described the move as aimed at improving the image of Kazakhstan, not expressing a commitment to human rights and democracy. Meanwhile the government's Agency for Religious Affairs (ARA) claims to have revoked a ban on a visit by an Islamic author, Imam Shamil Alyautdinov of Moscow's Memorial Mosque. However the ARA still insists that the imam cannot give any presentations in bookshops or universities, stating that this is banned under the new Religion Law President Nazarbaev signed on 11 October, which comes into force on 25 October.

Venice Commission application

On 11 October President Nazarbaev signed a new Religion Law and an Amending Law amending nine other laws and legal provisions, both of which violate the country's human rights commitments as many including the Organisation for Security and Co-operation in Europe (OSCE) have stated (see F18News 13 October 2011 http://www.forum18.org/Archive.php?article_id=1624). On the same day Foreign Minister Yerzhan Kazykhanov handed an application for full membership of the Venice Commission (the country is already an Observer) to visiting Council of Europe Secretary General Thorbjørn Jagland in Astana.

In the application, which Forum 18 has seen, Foreign Minister Kazykhanov claims that: "Kazakhstan has been increasingly pursuing the principles upheld by the Commission since the democratization movements of the early 1990s. We have also devoted ourselves to protecting human rights on the basis of the Constitution, in particular by establishing the Constitutional Council in 1996". He did not note that the Constitutional Council had declared the similar 2009 package of laws restricting freedom of religion or belief unconstitutional (see F18News 12 February 2009 http://www.forum18.org/Archive.php?article_id=1255).

OSCE legal review ignored

The OSCE's Office of Democratic Institutions and Human Rights (ODIHR), with which the Venice Commission frequently co-operates on legal reviews, had already expressed its concern about the laws, and called for them to be reviewed before signature. ODIHR Director Ambassador Janez Lenarcic, Director of the OSCE's ODIHR, commented on 29 September that:

"The new law appears to unnecessarily restrict the freedom of religion or belief and is poised to limit the exercise of this freedom in Kazakhstan", also stating that "It is disappointing to see that the law does not take into account the earlier comments by ODIHR and that it was passed without significant public consultation" (see http://www.osce.org/odihr/83191).

The 2009 review Ambassador Lenarcic referred to found that "many serious issues remain with respect to the Proposed Religion Law's compliance with international human rights standards" (see F18News 4 February 2009 http://www.forum18.org/Archive.php?article_id=1249).

Copyright Forum18 News Service 2011 - Page 1/4

Commenting on the signature of the laws, on 13 October ODIHR spokesperson Jens Eschenbaecher told Forum 18 that: "We already conveyed to the Kazakh authorities our opinion that the legislation appears to unnecessarily restrict the freedom of religion or belief and is poised to limit the exercise of this freedom in Kazakhstan". He also noted that "we reiterate the continued relevance of our 2009 Opinion on the previous draft legislation" (see Forum 18's article of 13 October 2011 http://www.forum18.org/Archive.php?article_id=1624).

Officials have been using the Religion Law and issuing threats based on it, even though it is not yet in legal force (see F18News 19 October 2011 http://www.forum18.org/Archive.php?article_id=1627).

"My country's experience and ability.."

Despite this record of ignoring an OSCE review and international human rights commitments, Foreign Minister Kazykhanov wrote in the application: "My country's experience and ability, especially taking into account last year Kazakhstan's in the OSCE, will help to promote the objectives of the Commission and contribute to the spreading of democracy and rule of law around the world. In this regard, I would like to request the initiation of the necessary proceedings for the full membership of the Republic of Kazakhstan in the Venice Commission of the Council of Europe."

As the Norwegian Helsinki Committee and others have documented, violations of freedom of religion or belief have taken place alongside widespread violations of other fundamental rights (see a report on Kazakhstan's record as OSCE Chair-in-Office in 2010 at http://www.nhc.no/?module=Files&action=File.getFile&ID=876).

Kazakhstan's application will not be considered by the Venice Commission itself, but will go to the Committee of Ministers of the Council of Europe for a decision.

"Nothing more than a desire to get another image victory.."

Nazgul Yergalieva of the independent Legal Policy Research Centre in Almaty says the application may be driven by a wish for foreign investment. "Kazakhstan's economic image has improved in recent years, but it is not enough to attract investors to the economy," she told Forum 18 on 13 October. "It needs to improve its political image."

Vyacheslav Abramov of Freedom House in Almaty described the application as "nothing more than a desire to get another image victory, another tick on the list of respected international organisations". He told Forum 18 on 13 October that "the country is not ready to become a member of the Venice Commission", noting that: "Kazakhstan is an example of a country where fundamental human rights are constantly violated by the state. The legal system and anti-democratic laws, such as the new Religion Law, show this".

Yergalieva called on the government, in the light of its application, "to submit the new laws restricting freedom of religion or belief to legal review by the Venice Commission, in accordance with the OSCE / Venice Commission Guidelines for Review of Legislation Pertaining to Religion or Belief" (see http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD%282004%29028-e).

She noted that Kazakhstan "should demonstrate in practice that it adheres to the fundamental values of the rule of law, human rights and democracy, which are the founding principles of the Venice Commission."

Abramov stated that the application should not be accepted. He commented that if the application is accepted, "it will be a clear signal to Kazakhstan that it can continue violating human rights and be at the same time be a member of respected organisations".

Will laws be sent for review?

The Press Service of the Foreign Ministry in Astana was not answering its phones on 20 October. But Kazakhstan's representative to the Council of Europe, Stanislav Vassilenko, insists that his country's application to join the Venice Commission is "one way for Kazakhstan to be closer to the Council of Europe" and reflects the Council of Europe's neighbourhood policy. "Kazakhstan shares Council of Europe standards," he claimed to Forum 18 from Strasbourg on 20 October. "We will be able to use the help of the Venice Commission experts to review our laws or draft laws."

Asked why he thinks any future Venice Commission legal reviews might help improve the compliance of Kazakhstan with its international human rights commitments, when many recommendations in OSCE reviews are ignored, Vassilenko responded: "I am not aware of what the OSCE does – I deal with the Council of Europe."

Asked whether Kazakhstan's government will submit the two Laws signed by President Nazarbaev on 11 October to the Venice Commission for a review, Vassilenko refused to answer. He then declined to answer any further questions.

Ban reportedly revoked but censorship imposed

Copyright Forum18 News Service 2011 - Page 2/4

Meanwhile, the Agency of Religious Affairs (ARA) claims to have revoked a ban on the visit to Kazakhstan of an Islamic author, Imam Shamil Alyautdinov of Moscow's Memorial Mosque. He had intended to present his new religious books in some Russian-speaking higher education institutions, and in bookshops. ARA Chair Kairat Lama Sharif told local media on 18 October that the Imam can come to Kazakhstan – but presentation of his books can take place only after "expert analysis" of the books by the ARA specialists.

However, Lama Sharif stated that "it is very precisely and clearly prescribed in the Religion Law [which is not yet in legal force] that all religious books imported into Kazakhstan must be checked by religious experts". He said that the books can be imported "if we do not see anything seriously contradicting our laws", and that "experts" will have 30 working days to complete their analysis.

Lama Sharif also stated that book presentations "of course will not be at bookstores or universities, but in a religious place". This is because the new Religion Law does not allow religious activity outside legally registered religious venues (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

The ARA had earlier banned Imam Alyautdinov's visit in an official letter addressed to the state-favoured Muslim Board. The letter, seen by Forum 18, signed on 6 September by Marat Azilkhanov, Deputy Chair of the ARA, reads that: "considering the events going on in our country, the visit of a foreign preacher, for the purpose of preaching, is inappropriate. We consider that it is necessary to attract to such events domestic scholars of Islam and religious studies, who will conduct the meetings in the framework of the national consciousness, patriotism, and traditions of our nation".

In interviews to various media published on his website umma.ru, Imam Alyautdinov noted that the visit had long been planned. "The organisers asked the approval of the Spiritual Board of Muslims of Kazakhstan. The Board was positive, but decided to ask permission from the Agency of Religious Affairs. But they in turn did not recommend my visit." He said the organisers "had waited for several months for a response from the official bodies and in the end, two weeks before the planned visit, received this letter".

Imam Alyautdinov said he had last visited Kazakhstan in 2004, when he travelled to Karaganda [Qaraghandy] Region. That visit - to meet readers of his works – had been arranged by the authorities themselves.

Why?

A Muslim reader of Alyautdinov's books in one of Kazakhstan's regions away from the capital, who wished to remain anonymous for fear of state reprisals, told Forum 18 on 21 October that the authorities "may be jealous of the Imam or afraid of his greater influence on Kazakh Muslims". They told Forum 18 that "I have been reading his books since 2008, and there is nothing political or against Kazakhstan there". The books help people to understand Islam, Forum 18 was told. "When I listen to sermons of our imams, I cannot concentrate and understand what they are talking about," they told Forum 18. "However when I read Imam Shamil I understand everything, and I enjoy reading his books."

In July 2011, having heard discussion of the planned Religion Law, Muslims asked the regional branch of the National Security Committee (KNB) secret police for approval to sell the Imam's books. These are the same books that the ARA is insisting that it must censor, but the KNB gave permission for the books to be sold.

The books "have been sold in this region for several years without any problems, and I have not heard of anyone buying or reading them getting into trouble", the reader noted.

A reader of Imam Alyautdinov's works in Almaty, who also asked not to be named for fear of state reprisals, told Forum 18 on 21 October that they think that the problems may be a misunderstanding, as the ARA was "established recently and may not know the Imam very well". The Imam has told readers in Almaty that he still wants to visit Kazakhstan to meet his readers, despite the "unpleasant" initial ban.

Zenur Yusipov, Imam Alyautdinov's representative, told Forum 18 on 21 October from Moscow that "if the Kazakhstani authorities want to invite the Imam he will definitely visit". He declined to comment on the ARA's ban or the revoking of it.

The ARA was not answering its telephones on 20 October. On 18 October ARA officials declined to talk to Forum 18. The secretary (who did not give her name) to ARA Chair Lama Sharif said he was in a meeting and not available to talk. She also said that Ardak Doszhan, Deputy Chair of the ARA and ARA Press Secretary, is on holiday. Marat Azilkhanov, the Deputy Chair of the ARA, also declined to talk to Forum 18 saying that "only [ARA Deputy Chair] Doszhan can answer" questions from the media. He repeated this answer when Forum 18 asked why he could not comment on his own letter banning the Imam's visit.

Ongar Omirbek, the Muslim Board's Press Secretary, declined to comment to Forum 18 on ARA decisions on Imam Alyautdinov's visit. He also said he does not know why the Muslim Board removed from its website a 14 October article reporting the ban on the visit. "I do not know anything about these issues," he told Forum 18 on 20 October. "Please, understand me, I cannot comment," he said. The telephones of Deputy Mufti Muhammadhussein Alsabekov and other officials at the Muslim Board went unanswered on

Copyright Forum18 News Service 2011 - Page 3/4

20 October. (END)

For a personal commentary on how attacking religious freedom damages national security in Kazakhstan, 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=1352.

More reports on freedom of thought, conscience and belief in Kazakhstan can be found at http://www.forum18.org/Archive.php?query=&religion=all&country=29.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

A printer-friendly map of Kazakhstan is available at http://education.nationalgeographic.com/education/mapping/outline-map/?map=Kazakhstan.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY

Copyright Forum18 News Service 2011 - Page 4/4