

13 December 2011

KAZAKHSTAN: Three fines, a 48-hour jail term, and a deportation

By Felix Corley, Forum 18

In Kazakhstan a Baptist was imprisoned for 48 hours in early December for refusing to pay fines imposed for leading meetings for religious worship, another Baptist having been separately fined for attending a meeting for worship, with a third facing a fine, possibly tomorrow (14 December), for the same "offence". In one of the Baptist cases police extorted statements from church members, but a fine was still imposed. A Muslim was fined and ordered deported back to his home country elsewhere in Central Asia, Forum 18 News Service has also learned. His "offence" was occasionally leading prayers in his local mosque without being personally registered as a "missionary". The new Religion Law along with an Amending Law considerably broadened the range of "offences" for exercising the right to freedom of religion or belief, as well as increasing punishments for this. Officials have refused to answer Forum 18's questions on whether these state actions violate the right to freedom of religion or belief, the judge in the case of the Muslim putting the phone down when the question was asked.

Baptist leader Nikolai Popov was imprisoned for 48 hours in early December for refusing to pay fines handed down for leading meetings for religious worship, according to the verdict seen by Forum 18 News Service. Also given a large fine for unregistered religious activity was another Baptist, while a third is expected to be fined tomorrow (14 December). A Muslim was fined and ordered deported back to his home country elsewhere in Central Asia, for occasionally leading prayers in his local mosque without being personally registered as a "missionary".

The punishments come as Kazakhstan's State Secretary Kanat Saudabaev insisted in a closed 27 October meeting of senior ministers and other officials that the "progressiveness" of the harsh new Religion Law must be promoted at home and abroad and that "positive acceptance" of its demands by Kazakhstan's religious communities must be achieved (see F18News 19 December 2011 http://www.forum18.org/Archive.php?article_id=1649).

Charges against two of the Baptists were brought under the still current Article 374-1, Part 2 ("Participation in the activity of a banned religious organisation") of the Code of Administrative Offences. Charges against the Muslim and the third Baptist, Popov, were brought under the old Article 375, Part 3 ("Carrying out missionary activity without local registration") of the Administrative Code.

"Offences" widened, punishments increased

The scope of the Administrative Code's Article 375 to punish the exercise of freedom of religion or belief was considerably widened, and the punishments sharply increased, in an Amending Law changing other laws relating to freedom of religion or belief. Among the many increases in Article 375's scope, Part 3 now punishes: "The carrying out of missionary activity by citizens of the Republic of Kazakhstan, foreigners and persons without citizenship without registration (re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment of a religious studies expert analysis".

The fine for this "offence" under Article 375 Part 3 is for Kazakhstani citizens 100 Monthly Financial Indicators (MFI). Article 375, Part 9, punishes such offences committed again within a year with fines of 200 MFIs. The punishment for foreigners and stateless persons under Article 375, Part 3, is 100 MFIs with deportation.

The MFI is set annually, and since 1 January 2011 has been 1,512 Tenge (60 Norwegian Kroner, 8 Euros, and 10 US Dollars). This is just below one tenth of the official minimum monthly wage.

The previous Article 375, Part 3 made no mention of "missionaries" using unapproved literature or other religious materials. It handed down fines for missionary activity without local registration ("uchetnaya registratsiya" in Russian) on citizens of up to 15 MFIs, with similar fines for non-citizens together with deportation from Kazakhstan. No provisions were present for increased fines for repeat "offenders".

The Amending Law which changed Article 375 along with the Religion Law came into force in October, without the provisions in the drafts of both laws being altered (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617).

Since both new laws restricting freedom of religion and belief were adopted, the Religion Law has been increasingly used to close places of worship in prisons and social care institutions (see F18News 11 November 2011 http://www.forum18.org/Archive.php?article_id=1635), and to bar foreign Protestant and Muslim guest speakers from entering the country (see F18News 23 November 2011 http://www.forum18.org/Archive.php?article_id=1637).

48 hours in prison

On 1 December, Baptist pastor Popov from the town of Balkhash in Karaganda [Qaraghandy] Region began a two-day prison term, local Baptists complained to Forum 18. The sentence was handed down that day for refusing to pay a fine for leading meetings for religious worship without the compulsory state registration.

"After the court hearing that day, he was allowed home for two hours before they locked him up in Balkhash's temporary isolation cells," Baptists told Forum 18. "The court bailiff warned him that if he does not pay off the fine when he is released, he will again be prosecuted."

Popov leads a congregation of the Baptist Council of Churches, who reject state registration on principle in all the former Soviet republics where they operate. Council of Churches Baptists have long faced fines or short terms of imprisonment for their insistence that they have the right to meet for worship without state registration.

According to court documents seen by Forum 18, Popov was accused in September of violating the then Article 375, Part 1 of the Code of Administrative Offences ("Refusal by leaders of religious associations to register them with state bodies, carrying out of activity by religious associations not in accordance with their statute, participating in the activity of or financing political parties, violating the rules governing holding of religious events outside the location of a religious association, organising of special children's or youth meetings not related to worship, and forcing individuals to carry out religious rituals").

On 12 October Judge Nurlan Asanov of the Specialised Inter-regional Administrative Court in Balkhash found Popov guilty and fined him 10,584 Tenge (417 Norwegian Kroner, 54 Euros or 72 US Dollars). However, Popov refused to pay the fine, arguing that it "violated his religious faith", according to the record of his refusal drawn up by the court bailiff on 29 November, seen by Forum 18.

Charges were then brought against Popov of violating Article 524 of the Code of Administrative Offences ("Failure to carry out court decisions"). On 1 December, Judge Yerkin Zhaparov of Specialised Inter-regional Administrative Court in Balkhash found him guilty and ordered the two-day prison term. "During the court hearing, Popov did not recognise his guilt," the verdict records, "and explained that he could pay the 10,584 Tenge fine, but that his religious convictions do not allow him to do that." The judge refused to accept that Popov had "objective reasons" for refusing to pay the fine.

The official who prepared the case, Rakhman Uzbekov, the senior aide to Balkhash's Prosecutor, was not present when Forum 18 called on 7 December. However, a colleague who did not give her name told Forum 18 that the law demands the registration of all religious communities and that it must be carried out. She then put the phone down.

International human rights commitments?

Forum 18 on 5 December commented to Svetlana Penkova, spokesperson for the government's Agency of Religious Affairs (ARA), that the actions of the court in fining and jailing Popov are not in accordance with Kazakhstan's Constitution or international standards in the area of freedom of religion or belief, including those of the Organisation for Security and Co-operation in Europe (OSCE) (see Forum 18's compilation of OSCE freedom of religion or belief commitments at http://www.forum18.org/Archive.php?article_id=1351).

Penkova was then asked by Forum 18 what the ARA is going to do to defend Popov's constitutional rights. She responded that she could only answer the question in writing, so Forum 18 sent the question in writing on 5 December, and resent it on 7, 9 and 12 December. No response had been received by the end of the working day in Kazakhstan on 13 December.

Refusal to pay fines

Council of Churches Baptists have a policy of not paying fines handed down to punish them for exercising the right to freedom of religion or belief. In response, the authorities give some short terms of imprisonment. One pastor, Vasily Kliver, received a five-day prison term in June 2009 (see F18News 9 June 2009 http://www.forum18.org/Archive.php?article_id=1309).

In other such cases, court bailiffs have confiscated property including washing machines, or the value of the fines has (for those in work) been taken direct from individuals' wages. This happened to Viktor Gutyar, who works in a coal mine (see F18News 27 September 2011 http://www.forum18.org/Archive.php?article_id=1618).

Fined and ordered deported

A Muslim has been ordered deported back to his home country elsewhere in Central Asia, according to court documents seen by Forum 18. Sources close to the case asked Forum 18 not to give the individual's name and location, for fear of state reprisals.

In a case brought by a town Prosecutor's Office, the Muslim was found guilty of becoming the imam of a local mosque without permission from Kazakhstan's Muslim Board. There he taught people the namaz (Muslim prayers) and conducted "illegal" missionary activities without permission or personal registration as a missionary, the verdict in his case claims.

A Judge at a city Court found him guilty in mid-November of violating the old Article 375, Part 3 of the Code of Administrative Offences ("Carrying out missionary activity without local registration"). The Judge sentenced him to a fine of 7,560 Tenge (298 Norwegian Kroner, 39 Euros or 51 US Dollars) and deportation from Kazakhstan.

The Muslim appealed against the punishment, arguing that he only led prayers in the mosque on an occasional basis when the main imam was absent and was not aware that this required registration as a "missionary". However, in early December, the Regional Court rejected the appeal. The Muslim has paid the fine, officials said on 12 December, and moves to deport him are expected "within days".

Colleagues of the Prosecutor's Office official who brought the case said he was not in the office when Forum 18 called on 12 December, but one colleague insisted that the Muslim was a "law-breaker". However, she added that only the head of the Prosecutor's Office was authorised to speak to the press. The head was not available when Forum 18 called.

The Judge who handed down the initial sentence began discussing the case with Forum 18 on 12 December. But as soon as Forum 18 asked whether fining the Muslim and ordering his deportation simply for leading prayers in a mosque was a violation of religious freedom, the Judge put the phone down. Subsequent calls went unanswered.

Under the new Religion Law anyone – whether a Kazakh or foreign citizen - regarded by officials as engaging in "spreading a faith" or "missionary activity" is classed as a "missionary". These terms are undefined. The "missionary" must every year obtain approval from a registered religious association, as well as personal registration as such with state authorities (see F18News 23 September 2011 http://www.forum18.org/Archive.php?article_id=1617). The ARA is preparing Regulations to implement the Law, including Missionary Regulations (see F18News 7 December 2011 http://www.forum18.org/Archive.php?article_id=1644).

The ARA has also made plans with a wide range of senior officials to bring all permitted Islamic activity under complete state control, including taking over the Muslim Board (see F18News 29 November 2011 http://www.forum18.org/Archive.php?article_id=1640).

Fined following extorted statements

Another Council of Churches Baptist, Aleksey Buka from the village of Kievka in Karaganda Region, was fined for participating in unregistered meetings for worship. On 1 December, Judge Aidar Mikhibaev of Nura District Court found him guilty under Administrative Code Article 374-1, Part 2 ("Participation in the activity of a banned religious organisation"). Buka was fined 75,600 Tenge (2,978 Norwegian Kroner, 387 Euros or 511 US Dollars), according to the verdict seen by Forum 18.

Nura District Court began hearing the case on 11 November, but the case had to be sent back for further work as the claims that police had found the church at worship turned out not to be true. Several church members testified in court that a police officer D. Zhanabylov had pressured them to sign statements about the activity of the church, but had deceived them by saying such statements would not be used to prosecute anyone.

The police also claimed to have visited the meetings for worship, which church members denied (see F18News 15 November 2011 http://www.forum18.org/Archive.php?article_id=1636). Three other church members refused to testify in court about Buka's activity, the court verdict reveals, despite threats by police of criminal prosecution.

Zhmagul Shuzhenov, Chair of Nura District Court, told Forum 18 in November that the Baptists had to register their church as "the law demands it" (see F18News 15 November 2011 http://www.forum18.org/Archive.php?article_id=1636).

Buka insisted that he has done nothing wrong and will not pay the fine. He told Forum 18 from Kievka on 12 December that he has lodged an appeal to Karaganda Regional Court, which is likely to be heard within the next month.

Prosecutor calls for fine

Another Council of Churches Baptist, Ivan Yantsen, is also on trial in Karaganda Region under Article 374-1, Part 2, the same charge as Buka faced. The sixth hearing in Yantsen's case is due under Judge Yelena Kirillova at Temirtau City Specialised Administrative Court on 14 December, local Baptists told Forum 18. The prosecutor is also calling for a fine of 75,600 Tenge, the

same fine as was imposed on Buka. (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