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TAJIKISTAN: Further administrative penalties punish religious activity

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

Three new Articles were added to the Code of Administrative Offences to punish those violating the Religion Law's tight restrictions on sending Tajik citizens abroad for religious education; on preaching and teaching religious doctrines; and on establishing ties with religious organisations abroad. Another new provision punishes religious communities doing things not specifically set out in their statutes. For the first time, the responsibility has been given to the State Committee for Religious Affairs to hand down the fines for such "offences", Forum 18 News Service notes. "Parliament did not see any violation of rights, and so adopted these changes," Mavlon Mukhtarov of the State Committee claimed to Forum 18. One independent legal expert told Forum 18 that "it should not be the prerogative of the State Committee to hand punishments to religious communities but of the courts." "We feel like little children who need to ask permission for each step we are taking," one Protestant complained to Forum 18.

Tajikistan has added further punishments to its Code of Administrative Offences for violations of the Religion Law, and given new competences to the State Committee for Religious Affairs (SCRA) to administer these punishments directly without investigation by police or prosecutors or trial by courts, Forum 18 News Service notes. The new provisions punish those violating the Religion Law's tight restrictions on sending Tajik citizens abroad for religious education; on preaching and teaching religious doctrines; and on establishing ties with religious organisations abroad. They also punish religious communities doing things not specifically set out in their statutes.

The new punishments consist of fines ranging between 30 and 100 Financial Indicators (FIs). One Financial Indicator was set in the 2012 Budget at 40 Somonis (50 Norwegian Kroner, 7 Euros or 8 US Dollars).

Such fines could amount to significant sums, especially for people without work or those in poorer, rural areas. Government figures from early 2012 put the average monthly wage for those in work at 530 Somonis. However, specialists in the capital Dushanbe told Forum 18 the average in many areas may be as low as 200 Somonis.

The changes to the Administrative Code were presented to the Lower Chamber of Parliament on 6 June by Jumahon Giyosov, First Deputy Chair of the State Committee for Religious Affairs, and adopted the same day. They were approved by the Upper Chamber on 14 June. They were signed by Emomali Rahmon on 3 July and entered into force on 3 July after their publication in official newspapers, Mavlon Mukhtarov, another Deputy Chair of the State Committee for Religious Affairs, told Forum 18 from Dushanbe on 24 August.

Tightening control

The new Administrative Code punishments are part of a steady tightening of state controls over all religious activity. The restrictive new Religion Law came into force in April 2009. In January 2011 a new "offence" was created by the addition of Article 474-1 to the Administrative Code, punishing "violations of the law on the production, import, export, sale and distribution of religious literature as well as of other objects and materials of religious significance", with very high possible fines (see Forum 18 Tajikistan religious freedom survey http://www.forum18.org/Archive.php?article_id=1553).

Amendments to the 2009 Religion Law imposing new controls on religious education entered into force in July 2011 (see F18News 21 July 2011 http://www.forum18.org/Archive.php?article_id=1595). A repressive Parental Responsibility Law banning almost all young people from attending places of worship entered into force in August 2011 (see F18News 16 August 2011 http://www.forum18.org/Archive.php?article_id=1602).

Concerns

Members of one religious community, who asked not to be named for fear of state reprisals, told Forum 18 on 18 August that "even though within the last year after the new provisions to the Religion Law were added, the authorities did not particularly punish religious communities" they are "afraid now that the State Committee and other authorities will begin to punish them" since the

corresponding penalties were introduced. "The Religion Law and the administrative penalties totally violate believers' rights," they said.

Members of several Protestant communities, who similarly wished to remain unnamed for fear of state reprisals, told Forum 18 that the new Administrative Code penalties – like the harsher 2009 Religion Law and its 2011 amendments – violate their rights and religious freedoms.

A leader of one Protestant Church called the changes to the Religion Law and the Administrative Code "absurd" and "draconian". The leader told Forum 18 on 22 August that "such laws disturb all without exception". "Under the guise of suppressing religious extremism in Tajikistan, the authorities use crude methods." The changes in the laws "directly infringe the rights of religious minorities, in particular of Christians," the leader said. "It is not clear what the authorities want from Christians in the area of religious education. There are no officially recognised Christian educational institutions in Tajikistan."

Mukhtarov of the SCRA and Usmon Akhunov, Head of the Legal Department of Parliament's Lower Chamber, both denied to Forum 18 that the Religion Law or the new punishments are restrictive or limiting. "Parliament did not see any violation of rights, and so adopted these changes," Mukhtarov claimed.

Fines for unlicensed religious education

Added to the Administrative Code was a new Article 474-2 (Violation of the Religion Law's provisions on the order of receiving religious education abroad by citizens of Tajikistan). This imposes fines for those involved in religious education abroad without state approval of between 50 and 100 FIs.

The Religion Law's Article 8, Part 4 allows Tajik citizens to receive religious education only from State-licensed religious educational institutions. The new provisions of Article 8 introduced in 2011 severely restrict receiving of religious education in foreign countries. This is permitted "only after receiving religious education in the Republic of Tajikistan and with the written consent of the authorised organs of State Religious Affairs and of State Education", while "the order of receiving religious education by citizens of Tajikistan in foreign countries is determined by the Government of Tajikistan".

Article 8 also does not allow children under seven to receive religious education. Children aged between 7 and 18 can receive it only with the written consent of their parents or guardians and only in their free time from school or state education programmes.

No choice

Hikmatullo Sayfullozoda of Tajikistan's officially registered Islamic Renaissance Party (IRP) complains of the existing restrictions and new penalties. "How can the State force its citizens to receive religious education only from its few madrassahs or the only Islamic University?", he asked Forum 18 on 17 August. He lamented that parents were left no choice choosing for their children religious education over secular education.

Several non-Muslim communities – including some Protestant communities – told Forum 18 that they may be in trouble with the Law, since they have no state-licensed religious education institutions in Tajikistan.

One Protestant leader from Dushanbe, who asked not to be named for fear of state reprisals, complained to Forum 18 on 22 August that "Christians, especially now, will be compelled to go abroad for religious education, since there are no licensed Christian schools in the country." The leader added that "exorbitant fines will await those who go abroad for religious studies without state authorisation."

Akhunov of the Parliament defended the State's policy of bringing religious education under state control. "Like in the countries of Europe and the West, and in any other country, we need to have order in the area of religious education," he told Forum 18 on 24 August. However, Akhunov could not tell Forum 18 which countries of the world oblige their citizens to ask for permission for religious education.

Asked why citizens of Tajikistan must receive permission from the state to go abroad for religious education, Akhunov was dismissive: "Yes, yes, often some of these feather-brained individuals just want to go abroad with such excuses."

Mukhtarov of the SCRA played down the concerns of religious communities, claiming that "we have not had problems in this regard so far". Asked how members of religious communities without officially recognised educational establishments in Tajikistan – such as Christians – can receive religious education, while the Religion Law demands one can go abroad for religious studies only after receiving such education in Tajikistan first, Mukhtarov claimed: "No one has asked us yet. Let them come, and we will issue permissions for any Christians." Mukhtarov did not comment on whether or not that would be by-passing the Law.

Fines for teaching religion in schools and private homes

Also added to the Administrative Code was a new Article 474-3 (Educational and preaching activity by religious communities). This punishes "Carrying out of educational and preaching activity by religious communities in institutions of pre-school, secondary school, primary professional, secondary professional and higher professional education, as well as in residential buildings or homes of citizens" with a fine of between 30 and 40 FIs.

Akhunov and Mukhtarov did not comment on why religious communities should not teach or preach in schools. However, Mukhtarov tried to explain the seeming contradiction between the Religion Law's Article 20, Part 3 and Article 23, Part 3, where the former declares that religious rites and rituals can be conducted in residential buildings or private homes, while the latter declares that no teaching or preaching can take place in homes of citizens.

Mukhtarov claimed that the Religion Law's Article 20, Part 3 deals with religious festivals, and that "they can be celebrated in the homes of believers", while Article 23, Part 3 deals with repeated religious activity in the same home. "Preaching once or twice in one home will not constitute a violation, but if it is repeated several times then it will be fined."

Fines for unauthorised ties with foreigners

The Code's new Article 474-4 (International ties of religious organisations) punishes religious organisations' unapproved international ties.

Article 10 of the Religion Law defines religious communities as those approved by local religious affairs officials but which do not have legal status as religious organisations. These are not permitted to establish international ties, while registered religious organisations can do so only with the permission of the State.

Part 1 of the new Article punishes leaders of religious communities which establish foreign ties with fines of between 30 and 40 FIs.

Part 2 of the new Article punishes leaders of registered religious organisations which establish international ties without State Committee approval with fines of between 50 and 100 FIs.

Sayfullozoda of the IRP and leaders of several non-Muslim communities complained to Forum 18 of the restrictions on international ties and the fines. They are concerned that the authorities could interpret the new provisions broadly to the point that even attendance at a religious ceremony or an event by individual believers while abroad could be considered as establishing international ties and punished.

A Protestant leader complained to Forum 18 on 22 August that now Christian Churches "will have to receive permission" from the State Committee whether they can have Christian friends or associates abroad and visit them, or receive religious education from them. "We feel like little children who need to ask permission for each step we are taking," the leader noted. "What if the Committee does not give permission?"

The pastor of another Protestant Church told Forum 18 on 22 August that "we try our best not to violate the Law, and try to give all kinds of information to the State Committee about ourselves, our activities and our international ties, so we can have good relations. Some officials take note of this and sometimes can be helpful." However, the pastor added that "on the whole we are under a lot of pressure to cooperate with the State, the Law is very restrictive."

Why is permission needed?

Given the concerns of religious communities and asked why, for instance, believers need to ask for permission to attend religious events abroad or the visit of co-believers abroad, Mukhtarov of the SCRA insisted to Forum 18: "It is because we want to stop religious extremism from spreading."

Asked why ordinary religious believers and communities must suffer severe restrictions and penalties because of alleged extremists, Mukhtarov promised: "We will issue permissions to the religious communities, and there will be no problems." He added that "only those who import and distribute extremist literature will be punished."

Faredun Hodizoda, a Dushanbe-based independent legal expert, told Forum 18 on 17 August that "the State may be trying to sever the ties, which can be established from within Tajikistan with those radical organisations in Arab countries, but it should not be done by such provisions in the Law or amendments." He argued that "this will force those who may be looking for such ties to go underground", which he said would be "counter-productive".

In an attempt to defend state control of international religious ties, parliamentary official Akhunov asked Forum 18: "Why should religious believers be afraid to ask for permission to attend a religious event abroad?" He claimed that if individuals "did not violate the Law, or their conscience is calm, they should not be afraid." Asked again by Forum 18 why religious believers or organisations need to ask permission each time, he responded: "Why should the authorities allow these religious organisations to do anything they want?"

Non-charter activity punishable

As well as the new Articles added to the Administrative Code, a new provision was added to the existing Article 474 (Violation of the Religion Law) – which already punishes unregistered religious activity, holding unauthorised religious events and teaching religion without authorisation. The new provision punishes the carrying out of any religious activity "going beyond the aims and tasks determined in a religious organisation's charter (statutes)".

Like the existing "offences" under this Article, such activity is punishable by a fine of between seven and ten FIs on physical persons, between 20 and 30 FIs on leaders of a religious community, and between 100 and 200 FIs on legal persons.

Religious Affairs officials to hand down fines

Broadening the competences of State religious affairs officials, the Administrative Code's new Article 728-1 gives them direct punitive functions against religious believers.

The Article declares that "The authorised State religious affairs organ within the limits of its competences examines cases of administrative violations foreseen under Articles 474 Part 1, and Articles 474-1, 474-2, 474-3 and 474-4 of the present [Administrative] Code."

The Chair of the State Religious Affairs Committee or his or her Deputies consider alleged violations of Articles 474 Part 1, and Articles 474-1, 474-2, 474-3 and 474-4 of the Administrative Code and impose punishments where appropriate.

The Chiefs of Religious Affairs Departments at local administrations are empowered to consider and punish a narrower range of "offences", under Article 474 Part 1, and Articles 474-2 and 474-3.

Just like administrative penalties imposed by other officials, punishments imposed by SCRA officials can be challenged through the courts, Article 264 of the Civil Procedure Code notes.

State Committee prerogative

One independent legal expert from Dushanbe objected to these provisions, telling Forum 18 on 24 August that "it should not be the prerogative of the State Committee to hand punishments to religious communities but of the courts." The legal expert added that it is also "not right" that the Religion Law's Article 32 authorises the State Committee to bring cases in court to close down religious organisations. "The State Committee is there to assist religious communities, and it should not even be interested in closing them down."

Mukhtarov of the State Committee for Religious Affairs again played down the concerns. "Well, we will not fine those who do not violate the Law." When Forum 18 insisted with the question, he argued that the competences were given by the Parliament. "It is part of the Law now, and we must obey it."

Akhunov of the Parliament echoed Mukhtarov, insisting that "no one should be afraid of being fined if they do not violate the Law." Explaining the new competences of religious affairs officials, he said that this was done to avoid "lengthy" pre-trial and trial procedures. "There will always be a chance for those doubting the objectivity of the fines to challenge them in courts," Akhunov added.

Why the new penalties?

Hikmatullo Sayfullozoda of the Islamic Renaissance Party (IRP) told Forum 18 on 17 August that the changes in the Religion Law and new penalties were "made to limit as much as possible the religious believers from exercising their religious freedoms".

However, he said that this will "not change the reality" for most Muslims. "They will go on teaching their children Islam, will continue sending their children to mosques as they have been doing so after the bans were introduced" into the Religion Law in 2011. "Or those young people who want to receive religious education abroad may go abroad and get religious education, but not bring papers to Tajikistan proving their religious education." He asked, "how will the State organs know whether or not the persons had religious education?"

Sayfullozoda argued that the authorities "know this, and are not worried about how citizens obey the Religion Law, as it is with other laws of Tajikistan." The Law was adopted to "have as a tool by which, at a convenient time, they can punish individuals or organisations they do not like."

Echoing Sayfullozoda, the Dushanbe-based legal expert, who asked not to be named for fear of state reprisals, told Forum 18 on 22 August that the changes are "definitely aimed at limiting religious communities' activity, and they violate the religious freedoms of

believers." The 2011 amendments to the Religion Law and new penalties introduced in 2012 were "made in haste without public consultation or taking into account the views of religious communities".

Also objecting to the new punishments was Hodizoda, the independent legal expert from Dushanbe. "The Law should be an instrument which works effectively, that is to say it is not difficult for citizens to obey it, and it is obeyed," he told Forum 18 on 17 August. He pointed out that after the 2011 ban on school children attending mosques during school hours, "I have witnessed children everywhere in Tajikistan attending mosques."

Hodizoda added that "the vast majority of our people profess Islam, and it is their mentality to teach their children Islam and send them to mosques. Such punishments will not change this." (END)

More coverage of freedom of thought, conscience and belief in Tajikistan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=31>.

For more background see Forum 18's Tajikistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1553.

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 Tajikistan is available at <http://education.nationalgeographic.com/education/mapping/outline-map/?map=Tajikistan>.

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