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KAZAKHSTAN: Seven large fines for "illegal missionary activity" – so far

By Felix Corley, Forum 18 (<https://www.forum18.org>)

Seven individuals - four Jehovah's Witnesses, two Muslims and a Protestant – are known to have been prosecuted since August 2012 for "illegal missionary activity", Forum 18 News Service has learned. Many are being given the maximum fine of 100 Minimum Financial Indicators, which in many parts of Kazakhstan represents several months' average wages. At least three more individuals are known to be expecting prosecution. Jehovah's Witnesses told Forum 18 they fear that the fines already handed down "will no doubt further embolden the Agency of Religious Affairs [ARA] and local law enforcement officials to arrest Jehovah's Witnesses". Zhorabek Daurenov of the ARA Department in Astana defended such fines on a local Jehovah's Witness and a Protestant. "If the Religion Law had been against the Constitution, it wouldn't have been adopted," he claimed to Forum 18.

One year after Kazakhstan significantly widened and increased administrative punishments for exercising the right to freedom of religion or belief, a growing number of individuals are being handed such punishments, Forum 18 News Service notes. Some punished for "illegal missionary activity" were sharing their faith with others on the street, others were leading religious meetings within their communities. Many are being given the maximum fine of 100 Minimum Financial Indicators (MFIs), which in many parts of the country represents several months' average wages.

"We are very concerned that more Jehovah's Witnesses will soon be arrested and convicted for 'missionary activity'," Jehovah's Witnesses told Forum 18 from Kazakhstan's commercial capital Almaty on 22 January. They fear that the fines already handed down "will no doubt further embolden the Agency of Religious Affairs [ARA] and local law enforcement officials to arrest Jehovah's Witnesses. The detentions and convictions appear to be coordinated by the ARA."

Seven "missionary activity" prosecutions so far

Seven individuals - four Jehovah's Witnesses, two Muslims and a Protestant – are known to have been prosecuted since August 2012 under Article 375, Part 3 of the Code of Administrative Offences. This punishes "illegal missionary activity" with a maximum fine of 100 MFIs (a figure set annually). In 2012 this amounted to 161,800 Tenge. In 2013 this rose to 173,100 Tenge (6,400 Norwegian Kroner, 860 Euros or 1,150 US Dollars). At least three more individuals are known to be expecting prosecution under Article 375, Part 3.

In the same period, one Baptist has already been prosecuted under Article 375, Part 1 with at least two more prosecutions imminent (see below).

Article 375 of the Code of Administrative Offences ("Violation of legislation on religious activity and religious associations") was significantly expanded and fines were increased under a 2011 Amending Law. It came into force – along with a new restrictive Religion Law - on 25 October 2011. Kazakhstan quickly began to use the new punishments against people exercising their right to freedom of religion or belief (see F18News 14 February 2012 http://www.forum18.org/Archive.php?article_id=1666).

Officials of the Legal Statistics Committee of the General Prosecutor's Office in the capital Astana refused to give Forum 18 any statistics for 2011 and 2012 for the number of prosecutions brought under Administrative Code Article 375 or Article 374-1 (which also prescribes punishments for unregistered religious activity). Press officer Saulebek Zhamkenov told Forum 18 on 22 January in writing that it had to submit an official request for the information in writing.

Compounding Jehovah's Witness fears of further prosecutions was a statement from the ARA published on its official website. It was responding to a 26 November 2012 question from a reader in the southern city of Shymkent complaining about the "renewed activation of Jehovah's Witnesses" and asking if sharing religious views and literature on the street is legal. The ARA replied that preaching on the street "is not allowed". "In connection with this, if illegal activity on the part of any religious organisations appears, you are within your rights to appeal to the appropriate agencies," an apparent reference to the police.

Astana case

On 4 December 2012, Judge Bayrzhan Akhmetkaliev of Astana's Specialised Inter-District Administrative Court found Jehovah's Witness Dmitry Bukin guilty of "illegal missionary activity" under Administrative Code Article 375, Part 3. He was fined 100 MFIs, according to the verdict seen by Forum 18.

The verdict reveals that the Astana Police's Anti-Extremism Directorate had "established during the course of operational/prophylactic measures" on 15 September 2012 that Bukin was conducting "illegal missionary activity" by leading a two-day religious meeting in a rented building. Anti-Extremism officer I. Zhumagalov told the court he had arrived during the meeting, which was attended by about 200 people, but had been prevented by those present from filming it.

Two officials of the ARA, Nazym Mukanova and Alia Masalimova, participated in the hearing and agreed with the charges.

However, Bukin rejected the accusations, insisting that his community has state registration and that holding religious meetings does not constitute "missionary activity".

Bukin appealed to Astana City Court. However, on 16 January 2013, in the presence of representatives from several foreign embassies, Judge Saule Aisina rejected the appeal. She dismissed a motion by Bukin's lawyer that the case should be suspended and referred to Kazakhstan's Constitutional Council to determine if the definition of "missionary activity" in Article 1, Part 5 of the Religion Law is unconstitutional.

Law Professor Roman Podoprigora of Almaty's Caspian Public University told the court that holding religious services does not constitute "missionary activity", the verdict reveals. However, Mukanova of the ARA, who had appeared for the prosecution at the lower court hearing, repeated her assertion that it does.

"Bukin was convicted simply because he had arranged and participated in a religious meeting of Jehovah's Witnesses. It was evident that the outcome of the hearing was predetermined," Jehovah's Witnesses complained to Forum 18 in the wake of the appeal. "As everyone in the courtroom witnessed, the judge did not want to hear any arguments about freedom of expression or freedom of religion protected by Kazakhstan's Constitution or the International Covenant on Civil and Political Rights."

Erbulan Kusainov, head of the Anti-Extremism Directorate of Astana City Police, admitted to Forum 18 that officer Zhumagalov from his Directorate had been involved in the case against Bukin. However, he refused absolutely to answer any questions. "I won't give any comment," he told Forum 18 from Astana on 22 January.

Zhorabek Daurenov, who recently took over as head of the ARA Department in Astana, defended Bukin's fine. "As patriots of Kazakhstan we must all obey the law," he told Forum 18 from Astana on 22 January. He rejected suggestions that the prosecution of Bukin and the earlier local case against Tamara Kim (see below) violated Kazakhstan's Constitutional guarantees of religious freedom. "If the Religion Law had been against the Constitution, it wouldn't have been adopted," he claimed.

"According to Kazakhstan's law on Administrative Violations, Bukin has no further right of appeal," Jehovah's Witnesses told Forum 18. "Instead, his only option is to file a motion to the Astana City Prosecutor's Office requesting that they protest the decision to the Supreme Court and, once that is rejected, to file a motion to the General Prosecutor's Office. We intend to file a motion directly with the General Prosecutor's Office in the coming days."

Other Astana cases

On 28 December 2012, Astana City Police detained Talgat Bilbayev for "talking near his apartment to a man about the Bible", Jehovah's Witnesses complained to Forum 18. They added that the same day, Astana City Police also detained two other Jehovah's Witnesses - Ahmet Alseyitov and Marat Nurbayev - on similar grounds. All three expect that their cases will soon be forwarded to Astana Prosecutor's Office.

These cases follow an earlier case when prosecutors initially failed to convict a Protestant under Administrative Code Article 375, Part 3. The police had drawn up a record of an offence after they caught Tamara Kim, a deacon in Bethel Protestant Church, leading Sunday worship for about 10 church members during an "inspection" in the church building on 1 July 2012. However, on 6 August 2012, Judge Yevgeni Kurbatov of Astana's Specialised Inter-District Administrative Court rejected the prosecutor's demand to punish Kim for "missionary activity" without personal registration as a missionary from the ARA Department.

Kim told the court that for the previous two months she had led services in her church during the pastor's absence abroad. However, she rejected accusations that she was thereby conducting "missionary activity".

The verdict – seen by Forum 18 – reveals that the then ARA Department head A. Mukazhanov insisted to the court that "holding religious rituals and sermons is missionary activity and requires agreement" from his Department. The prosecutor demanded that she be convicted and fined 100 MFIs. However, Judge Kurbatov found that no offence had been committed.

Astana's Deputy Prosecutor Almat Baishulakov then appealed against the acquittal. On 27 August 2012, Judge Aisina of Astana City Court – who later was to confirm Bukin's sentence - overturned the earlier decision and fined Kim 100 MFIs under Article 375, Part 3, according to the verdict seen by Forum 18.

The verdict reveals that the ARA sent a letter on 7 August 2012 admitting that the Religion Law does not define "spreading a faith" or "religious rituals and ceremonies". However, two officials of the ARA's Legal Department, Mukanova and Masalimova (who were later to testify in Bukin's case), were questioned in court for a more "objective" view. They testified that religious services and sermons constitute "missionary activity".

Kim then lodged a further appeal to Kazakhstan's General Prosecutor's Office, Protestants told Forum 18.

Pavlodar case

On 21 December 2012, Judge Bibigul Alinova of Pavlodar's Specialised Administrative Court found Jehovah's Witness Nurzhan Aglakov guilty of "missionary activity" under Article 375, Part 3. He too was fined 100 MFIs. The verdict – seen by Forum 18 – reveals that he was stopped on the evening of 11 November 2012 while sharing his faith among fellow residents.

"Nurzhan was simply answering questions about his beliefs to an interested man who lives in the same building," Jehovah's Witnesses complained to Forum 18.

On 14 January 2013, Aglakov filed an appeal to Pavlodar Regional Court, which set 25 January as the date for the appeal. Jehovah's Witnesses told Forum 18 they have asked the Court to delay the appeal hearing to allow time to send a lawyer.

Aktau cases

On 15 January 2013, Judge Bolat Pazylov of Aktau Administrative Court found two Jehovah's Witnesses guilty of conducting "missionary activity" under Administrative Code Article 375, Part 3. Nadezhda Shefer and Natalia Lashova were each fined 100 MFIs, according to each of their verdicts seen by Forum 18. Mangistau Regional Police had called Aktau Police after reports had come in on 29 November 2011 that "two women of European appearance were conducting illegal missionary activity" on the streets of Aktau, the verdict notes. The verdict notes that a police officer had decided that the two should not be prosecuted under the Criminal Code.

Both Shefer and Lashova are planning to appeal against their fines.

Raushan Gaisina, a Deputy Head of Aktau Police, refused absolutely to discuss the fines – or why her officers had been involved in detaining individuals discussing their faith with others on the street. "I'm not embarrassed about this," she insisted to Forum 18 from Aktau on 22 January. "But I won't give any information by telephone."

Gaisina referred Forum 18 to Mangistau Regional Police press department. Reached the same day, an official said nothing when Forum 18 asked why police are involved in detaining individuals who discuss their faith with others on the street. She then hung up. When Forum 18 called back, the line had been diverted to a fax machine.

Equally reluctant to talk was a Deputy Prosecutor in Aktau, Serik Amirov. "You don't have true information on the case," he told Forum 18 on 22 January. Told that Forum 18 had taken its information from the Shefer and Lashova's verdicts, he declined to answer any other questions and put the phone down.

Forum 18 was thus unable to ask Amirov about two members of a Muslim movement reported as also having been fined under Article 375, Part 3 for "illegal missionary activity". Deputy Regional Prosecutor Erzhan Berdibekov told the local media on 16 January that the members of the Suleyman Hilmi Tunahan movement had come from other regions of Kazakhstan and conducted religious activity in a private home. Forum 18 has been unable to find out if the movement – which Berdibekov said had been closed down – is connected with the late Turkish Sufi scholar of the Naqshbandi movement with the same name.

Aktobe case

Meanwhile, prosecutions are continuing under Administrative Code Article 375, Part 1. This punishes violations of the legal procedure for holding religious worship with a fine of 50 MFIs on individuals and 100 MFIs on leaders of religious organisations.

On 21 January, Aktobe's Specialised Administrative Court fined local Baptist Dana Abykenov 50 MFIs under Article 375, Part 1. Although he was expecting a trial hearing, local Baptists said he was taken from work directly to the court without prior warning. "This is a significant fine," a fellow church member told Forum 18 from Aktobe on 22 January. "It represents several months' average wages here. But of course he won't pay the fine as he's not guilty of doing anything wrong. Though they might deduct the fine from his wages."

Local Baptists told Forum 18 Abykenov was punished for offering Christian books at a small table to passers-by on the streets of Aktobe in late November 2012. "Police confiscated the books from him and said they were going to conduct an 'expert analysis' of them," the church member told Forum 18. "He doesn't know if he'll get them back or not."

Members of Council of Churches Baptist congregations do not seek state registration in any of the post-Soviet republics where they operate. They also have a policy of not paying fines handed down to punish them for exercising their right to freedom of religion or belief.

Almaty cases

Prosecutors have told two members of Almaty's Council of Churches Baptist congregation that they will face trial under Administrative Code Article 375, Part 1. "Yuri Bronitsky and Fedor Karabeinikov were summoned to the Prosecutor's Office on 11 January and told this," local Baptists told Forum 18 on 22 January. "They were not told when the cases will be heard."

Police came to the Almaty church as well as to the congregation in Taldykurgan [Taldyqorgha] in Almaty Region. "They came during worship and photographed us," local Baptists complained. "They said they had an order from above that now the new law has been adopted they will close us down." (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.

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