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KAZAKHSTAN: 87-year-old fined, two new five-day prison terms

By Felix Corley, Forum 18

Yegor Prokopenko – a religious prisoner of conscience in the 1970s and 1980s – has again been fined for exercising the right to freedom of religion or belief. Now aged 87 and three months, Forum 18 News Service believes him to be the oldest victim of Kazakhstan's policy of fining those who conduct religious activity without state permission. Two five-day prison terms were handed down in March on those refusing to pay fines imposed for exercising religious freedom. In the first 10 weeks of 2014, nearly 50 administrative fines (one or two months' average wages) are known to have been handed down. In this period, seven individuals were imprisoned for between one and 10 days for refusing to pay earlier fines.

Former Soviet-era religious prisoner Yegor Prokopenko is among nearly 50 individuals known to have been fined in the first 10 weeks of 2014 for exercising their right to freedom of religion or belief. Aged 87 and three months, he is believed to be the oldest victim of Kazakhstan's policy of fining those who conduct religious activity without state permission, Forum 18 News Service notes. Prokopenko was only 86 when he was last fined.

In addition, two Baptists were imprisoned for five days each in early March. They bring to seven the number of individuals known to have been imprisoned for between one and ten days in the first 10 weeks of 2014 for refusing to pay earlier fines imposed to punish them for exercising their right to freedom of religion or belief. Another was given a small fine.

Council of Churches Baptists have adopted a policy of civil disobedience, refusing to pay fines imposed for meeting for worship without compulsory state registration. Council of Churches Baptists think such fines are wrong, as neither Kazakhstan's Constitution nor the country's international human rights obligations allow punishments for exercising human rights without state permission.

A total of 26 Council of Churches Baptists are known to be on the travel ban list because they have refused to pay fines imposed to punish them for exercising the right to freedom of religion or belief. Prokopenko was until recently also among those banned from leaving Kazakhstan (see below).

The United Nations Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, is due to visit Kazakhstan between 26 March and 6 April, according to the UN Office of the High Commissioner for Human Rights website (<http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/Visits.aspx>).

No comment

Galym Shoikin, Deputy Chair of the Agency of Religious Affairs (ARA) in the capital Astana, refused to explain to Forum 18 on 13 March why an 87-year-old former Soviet-era prisoner of conscience continues to be among those fined for exercising their right to freedom of religion or belief and why others are given short-term imprisonment for refusing to pay fines.

Alibek Sabdinov, a chief expert at the office of the Ombudsperson for Human Rights in Astana who covers freedom of religion cases, admitted to Forum 18 the same day that the Office has received "numerous" complaints about administrative fines and other punishments.

However, apart from responding to such complaints and explaining the law, and compiling reports to President Nursultan Nazarbayev, he appeared unable to say what steps the Ombudsperson's Office had taken to try to end punishments for exercising the right to freedom of religion or belief. "It is not within our competence to change the Code of Administrative Offences," he told Forum 18.

(The office of Kazakhstan's Ombudsperson for Human Rights is not fully compliant with the Paris Principles on the independence of such national human rights bodies from government, according to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.)

At a 6 March briefing for foreign diplomats at the Foreign Ministry in Astana, Foreign Minister Yerlan Idrisov dismissed concerns over those punished for exercising their right to freedom of religion or belief. "We know of just a few cases of judicial hearings

related to representatives of individual confessions," a statement on the Foreign Ministry and ARA websites quoted him as declaring. "I assure you that all these cases are connected with violations of the law of our country. In the majority of cases, these are questions related to the observance of registration norms."

Oldest known victim?

Prokopenko – who leads a Council of Churches Baptist congregation in Zyryanovsk in East Kazakhstan Region – served a total of six and a half years' imprisonment for his faith during the Soviet period. He served three and a half years of a five-year sentence handed down in 1972, and the full three-year sentence handed down in 1982. He was fined for exercising the right to freedom of religion or belief in 2006, 2008 and 2013 (see F18News 30 October 2013 http://www.forum18.org/archive.php?article_id=1891).

The latest trouble began for Prokopenko when police raided the congregation he leads in a private home in Zyryanovsk during Sunday worship on 11 November 2013. Some 70 people, including children, were present. Police officers drew up a record of an offence under Administrative Code Article 374-1, Part 1.

Article 374-1, Part 1 punishes "Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation".

The case was heard on 21 February 2014 under Judge Anaurkhan Kalenov at Zyryanovsk Specialised Administrative Court. "Each Sunday believers gather in a private home to meet their spiritual needs," the verdict – seen by Forum 18 – notes that Prokopenko told the court, "they read the Bible, sing and pray. Creating a religious association is the right of believers, not an obligation. Forcing believers to create a religious association and register he considers to be a violation of the rights and freedoms of believers enshrined in Kazakhstan's Constitution."

Rejecting Prokopenko's argument, Judge Kalenov found him guilty and fined him the maximum, 100 Monthly Financial Indicators (MFIs), 185,200 Tenge (6,000 Norwegian Kroner, 750 Euros or 1,000 US Dollars). This is about two months' average wages for those in work. As a pensioner, Prokopenko receives far less.

Fining 87-year-old man "is the law"

The verdict claims that Judge Kalenov took into account Prokopenko's age, but also noted that he had been sentenced before for the same "offence".

Judge Kalenov defended his decision to punish an 87-year-old man for exercising his right to freedom of religion or belief. "This is the law," he insisted to Forum 18 from the court on 13 March. "His rights were explained to him in court, and he has appealed against the sentence to the Regional Court." Judge Kalenov declined any other comment, saying he was not allowed to discuss his decisions.

Another court official confirmed to Forum 18 the same day that the court was aware that Prokopenko had been imprisoned for exercising his right to freedom of religion or belief in the Soviet period.

Two five-day prison terms

On 3 March, Judge Rauza Aliyeva of Petropavl Specialised Administrative Court found local Baptist Aleksandr Pukhov guilty of violating Administrative Code Article 524, according to the verdict seen by Forum 18. She sentenced him to five days' imprisonment, to start that day. Article 524 punishes "Failure to carry out court decisions".

Local Baptists complained to Forum 18 that no church members were allowed into the court to support Pukhov at the hearing.

Pukhov had been fined in January 2013 (see F18News 5 February 2013 http://www.forum18.org/archive.php?article_id=1798).

On 6 March, Judge Serik Amirov of Zhakysy District Court No. 2 similarly found local Baptist Vyacheslav Flocha guilty under Article 524, according to the verdict seen by Forum 18. He sentenced him to five days' imprisonment, to start that day. The Judge claimed that a prison term was "necessary" with the aim of "restoring social justice and the education of the individual who committed the violation, as well as warning against committing new violations".

Flocha, who is married with ten children, also owns the private home in the village of Zaporozhye where the Baptist congregation meets. Local Baptists told Forum 18 that during the trial, Judge Amirov told Flocha verbally that a restraining order was being issued on his home. However, this does not appear in the written verdict.

Flocha had been fined in July 2013 (see F18News 22 August 2013 http://www.forum18.org/archive.php?article_id=1868).

Forum 18 was unable to reach Judge Amirov on 13 March. Court officials told Forum 18 he was away until 17 March.

Seven short-term jail terms in 2014 so far

The seven individuals given short-term jail terms so far in 2014 are:

1. Vyacheslav Cherkasov; CC Baptist; 9 January Burabai District Specialised Administrative Court; Article 524; 2 days.
2. Zhasulan Alzhanov; CC Baptist; 9 January Burabai District Specialised Administrative Court; Article 524; 2 days.
3. Maksim Kandyba; CC Baptist; 20 January Semei Specialised Administrative Court; Article 524; 10 days.
4. Pavel Leonov; CC Baptist; 20 January Ayagoz District Court; Article 524; 3 days.
5. Vitaly Krasilnikov; CC Baptist; 21 January Oskemen Specialised Administrative Court; Article 524; 1 day.
6. Aleksandr Pukhov; CC Baptist; 3 March Petropavl Specialised Administrative Court; Article 524; 5 days.
7. Vyacheslav Flocha; CC Baptist; 6 March Zhaksy District Court No. 2; Article 524; 5 days.

In addition, on 12 February Judge Salim Zhupenov of Nury District Court found Baptist Sergei Lantsov guilty of violating Administrative Code Article 524. He fined him 2 MFIs.

Cherkasov, Kandyba, Leonov, Pukhov and Flocha are already on the exit travel ban list (see below).

Fines so far in 2014

Fines on individuals exercising their right to freedom of religion or belief remain routine in 2014. In 2013, according to a documented list compiled by Forum 18, more than 150 fines on named individuals are known to have been handed down. Those punished include Protestants, Jehovah's Witnesses, Muslims, Hare Krishna devotees and commercial booksellers and traders (see F18News 11 November 2013 http://www.forum18.org/archive.php?article_id=1895).

Fines are handed down under Article 374-1, as well as Article 375.

Article 375, Part 1 punishes "Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship".

Article 375, Part 3 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".

These are the known fines so far in 2014, according to court decisions seen by Forum 18:

1. Vyacheslav Cherkasov; CC Baptist; 15 January Ayagoz District Court; Article 375, Part 1; 50 MFIs.
2. Ruslan Yermakov; CC Baptist; 15 January Ayagoz District Court; Article 375, Part 1; 50 MFIs.
3. Nikolai Popov; CC Baptist; 15 January Ayagoz District Court; Article 375, Part 1; 50 MFIs.
4. Aleksandr Ventsel; CC Baptist; 15 January Ayagoz District Court; Article 375, Part 1; 50 MFIs.
5. Serkali Kumargaliev; CC Baptist; 16 January Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
6. Vladimir Pestryakov; CC Baptist; 23 January Kokshetau Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
7. Pavel Tokarev; Jehovah's Witness; 23 January Petropavl Specialised Administrative Court; Article 375, Part 3; 100 MFIs.
8. Kenzhetai Baytinov; CC Baptist; 24 January Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
9. Vadim Gritsai; CC Baptist; 29 January Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.

10. Nailya Zhevagina; CC Baptist; 29 January Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
11. Viktor Kandyba; CC Baptist; 31 January Semei Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
12. Igor Kunitsyn; CC Baptist; 31 January Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
13. Anatoly Stakhnev; CC Baptist; 31 January Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
14. Viktor Gordeyev; CC Baptist; 5 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
15. Sergei Kulikov; CC Baptist; 5 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
16. Larisa Smotrova; CC Baptist; 5 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
17. Mariya Dyagileva; CC Baptist; 7 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
18. Yelena Dyachenko; CC Baptist; 7 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
19. Nikolai Levin; CC Baptist; 11 February Sandyktau District Court; Article 374-1, Part 1; 100 MFIs.
20. Sergei Krasnov; CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
21. Nikolai Novikov; CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
22. Andrei Labinsky; CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs. Tried in absentia.
23. Serkali Kumargaliev (2); CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
24. Ivan Isaev; CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
25. Ivan Isaev (2); CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs. Tried in absentia.
26. Gulsuna Kadenova; Jehovah's Witness; 13 February Oskemen Specialised Administrative Court; Article 375, Part 3; 100 MFIs.
27. Aleksandr Pukhov; CC Baptist; 13 February Petropavl Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
28. Ramil Nizamov; CC Baptist; 13 February Petropavl Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
29. Bakytzhan Nuskabayev; Muslim; 17 February Shymkent Specialised Administrative Court; Article 375, Part 3; 100 MFIs.
30. Gulzhibek Baltagireyeva; Commercial bookseller; 17 February Taiynsha District Court; Article 375, Part 1; 100 MFIs.
31. Sergei Chuvashkin; Jehovah's Witness; 19 February Esil District Court; Article 375, Part 9; 200 MFIs.
32. Madina Nisambekova; Jehovah's Witness; 20 February Kokshetau Specialised Administrative Court; Article 375, Part 3; 100 MFIs.
33. Yegor Prokopenko; CC Baptist; 21 February Zyryanovsk Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
34. Yury Kholod; CC Baptist; 21 February Zyryanovsk Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
35. Boris Pashkin; CC Baptist; 21 February Zyryanovsk Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
36. Yerkebulan Nukasov; Muslim; 26 February Almaty Inter-District Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
37. Yury Shlyapkin; CC Baptist; 27 February Kyzylorda Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
38. Ainur Kumarbayeva; Jehovah's Witness; 3 March Kokshetau Specialised Administrative Court; Article 375, Part 3; 100 MFIs.
39. Yuri Toporov; Jehovah's Witness; 3 March Almaty Inter-District Specialised Administrative Court; Article 375, Part 3; 100 MFIs (plus deportation).

40. Nikolai Serdyuk; CC Baptist; 6 March Akmola Regional Court; Article 374-1, Part 2; 50 MFIs.
41. Bakytzhan Nuskabayev (2); Muslim; 6 March Shymkent Specialised Administrative Court; Article 375, Part 1; 100 MFIs.
42. Zhainarbek Sapanov; Commercial bookseller; 7 March Atyrau Specialised Administrative Court; Article 375, Part 1; 50 MFIs.
43. Zhanbolat Kuanishev; Commercial bookseller; 7 March Atyrau Specialised Administrative Court; Article 375, Part 1; 50 MFIs.
44. Ruslan Balashanov; Jehovah's Witness; 7 March Arkalyk City Court; Article 375, Part 3; 100 MFIs.
45. Akhmet Alseitov; Jehovah's Witness; 7 March Arkalyk City Court; Article 375, Part 3; 100 MFIs.
46. Aleksandr Yalfimov; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.
47. Nadezhda Anishchenko; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.
48. Tatyana Sultangaliyeva; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.
49. Malik Sultangaliyev; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.
50. Gaukhar Sultangaliyeva; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.

Unsuccessful administrative cases

Further administrative cases have been launched against many other religious believers in 2014 under Article 374-1 and Article 375. However, many were cancelled because cases were filed too late after the alleged offence (Olga Pestryakova, Vasily Khairullin, Vladimir Skumbin, Zhanar Kalieva, Adam Klyatt); sent back because prosecutors or Religious Affairs Department officials had not prepared the cases properly (Yevgeny Lyakhov, Mikhail Tsurkan, Sergei Kucherin); or sent back because those being prosecuted were unable to attend court for medical reasons (Akmaral Serikova).

In the cases of Pestryakova, Khairullin, Skumbin and Kalieva, all heard at Kokshetau Specialised Administrative Court on 23 February, Judge Aleksei An issued a special extra decision in each case criticising Galina Bessmertnaya, the official of Akmola Akimat's Religious Affairs Department who had filed the cases after the legal deadline.

Similarly, after three attempts to convict Klyatt at Bulandy District Court, Judge Lyudmila Tsibul'skaya issued a special extra decision on 3 March criticising the local police officers who had brought the case after the legal deadline and with other procedural violations.

Even though these cases have not yet resulted in fines or other punishments, religious believers have complained to Forum 18 of the time, expense and energy these cases absorb as well as the stress they cause to individuals.

Property seizures and restraining orders

Those who refuse to pay fines face frequent visits from court bailiffs. In addition to threatening prosecution under Administrative Code Article 524, they often draw up an inventory of an individual or family's property with a view to seizing items to pay off the fines.

On 13 January court bailiffs visited the Kulikov family in Semei (Semipalatinsk) and put a restraining order on the family's washing machine and microwave. At the Kandyba family home in Semei (church leader Viktor Kandyba has 17 children), court bailiffs chose not to put any further property under restraining orders. The restraining order imposed on the Kandybas' home and car in 2007 has not been lifted.

On 14 February, court bailiffs in Oral visited Nikolai Novikov's home and put a restraining order on his car, local Baptists complained to Forum 18. He was fined twice in 2013 (see F18News 11 November 2013 http://www.forum18.org/archive.php?article_id=1895).

On 27 February, court bailiffs seized the car from Sergei Golovanenko for non-payment of a fine handed down in November 2013. Only afterwards did he learn that the seizure order had been completed on 4 February and the deadline for appealing against it had passed, local Baptists complained to Forum 18.

In late 2013, court bailiffs in Ayagoz put a restraining order on Pavel Leonov's property.

Travel bans

In addition to the threat of further prosecution and restraining orders on their property, those who refuse to pay fines imposed to punish them for exercising their right to freedom of religion or belief are often added to the list of debtors unable to leave Kazakhstan.

A total of 26 Council of Churches Baptists are known to be on the travel ban list as of 13 March: Nail Agatanov, Aleksei Asetov, Raisa Bakenova, Aleksei Buka, Vyacheslav Cherkasov, Tatyana Degterenko, Valentina Dyakova, Vyacheslav Flocha, Aleksandr Gorbunov, Andrei Grigoryev, Dmitry Isaev, Maksim Kandyba, Aleksandr Kerker, Vasili Kliver, Sergei Krasnov, Andrei Labinsky, Pavel Leonov, Nikolai Novikov, Tatyana Osipova, Roman Pugachev, Aleksandr Pukhov, Tamara Yakovenko, Aleksandr Yalfimov, Natalya Yalfimova, Ivan Yantsen and Svetlana Zaitseva.

A further five have had their names removed from the list: Yegor Prokopenko, Serkali Kurmangaliev, Tatyana Agaeva, Pyotr Zimens, Dana Abekenov and Aliarstan.

Yerlan Syzdykpayev of Zhaksy District court bailiffs admitted that he had initiated the exit travel ban on Flocha. But he said a court decision in December 2013 had confirmed this. "It wasn't me that fined him – I just fulfil the orders of the court," he insisted to Forum 18 on 13 March. "Everything was done in accordance with the law." (END)

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>.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1352.

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY