

20 August 2015

KAZAKHSTAN: Two-month KNB secret police detention – prosecution to follow?

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

Kazakhstan's KNB secret police arrested Seventh-day Adventist Yklas Kabduakasov on the evening of 14 August after searching his home in the capital Astana and confiscating religious books. Also searched the same day was the Adventist church where he worships. On 15 August an Astana court ordered he be held in two-month pre-trial detention at the secret police Investigation Prison, the court chancellery told Forum 18 News Service. Prisoner of conscience Kabduakasov is challenging this detention at a hearing tomorrow morning (21 August), his lawyer Gulmira Shaldykova told Forum 18. The secret police claim he was spreading "religious discord" when discussing his faith with and offering Christian books to others. KNB secret police Investigator Diyar Idrishov refused to discuss Kabduakasov's case. "I was merely a witness to his arrest and am not involved in the investigation," he told Forum 18. He said Investigator Nurlan Belesov was leading the criminal case (with a possible five to 10 year prison sentence), but the man who answered his phone repeatedly hung up when Forum 18 asked about the case.

Seventh-day Adventist prisoner of conscience Yklas Kabduakasov is to challenge a court decision to imprison him for two months' pre-trial detention, his lawyer Gulmira Shaldykova told Forum 18 News Service from Kazakhstan's capital Astana on 20 August. The challenge is due to be heard tomorrow morning (21 August) at Astana City Court. The 54-year-old Kabduakasov was arrested by the National Security Committee (KNB) secret police on the evening of 14 August and is being held at their Investigation Prison in the city. They claim he was spreading "religious discord" when discussing his faith with and offering Christian books to others.

Judge Nabi Pazylov of Astana's Saryarka District Court No. 2 ordered Kabduakasov's two-month pre-trial detention at a hearing on Saturday 15 August, the court chancellery told Forum 18 on 20 August. "We consider such detention cases even on a Saturday or a Sunday," the official – who did not give his name – said. "It makes no difference what day it is." He said the detention suit had been brought by the KNB secret police investigator. The lawyer Shaldykova represented Kabduakasov at the hearing.

Kabduakasov's arrest was mentioned at the weekly service of his Adventist congregation in Astana on Saturday 15 August, a congregation member told Forum 18.

Arrest

Kabduakasov, who works for an Astana-based building company Stroinvest, was stopped by the traffic police in Astana on 14 August and taken back to his home in the city, those close to him told Forum 18 from Astana on 18 August. Once there, KNB secret police officers searched his home and confiscated several Christian books. At about 6 pm, at the end of the search, the KNB officers arrested him.

At least some family members learnt of Kabduakasov's arrest only in the early hours of 15 August. Later on 15 August, the KNB secret police Investigator summoned relatives to bring Kabduakasov something to eat in prison.

The church in Astana that Kabduakasov attends was also searched on 14 August, Forum 18 understands.

Kazakhstan's tight restrictions on exercising the right to freedom of religion or belief include a ban on anyone apart from individuals appointed specifically by registered religious communities and who have personal registration with the state as "missionaries" (whether local citizens or foreigners) from conducting "missionary" activity. Any religious literature such state-approved "missionaries" use also requires specific state approval. Anyone else who even talks to another person about their faith or gives them a book on a religious theme therefore risks punishment (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

"Looking for some way to find evidence against him"

The KNB secret police are believed to have been keeping Kabduakasov under surveillance in recent months, including through the use of video surveillance, as they disliked his practice of discussing his faith with others. In May the KNB secret police apparently

gave him a written warning about his "missionary activity" which they insisted was "illegal", those close to him told Forum 18. The KNB secret police is known to closely monitor all religion or belief communities (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939)

"They have been looking for some way to find evidence against him," someone close to him told Forum 18.

"Incitement of religious discord"?

The KNB secret police is investigating Kabduakasov for "incitement of social, national, clan, racial, or religious discord" under Criminal Code Article 174, Part 2, the court chancellery and Kabduakasov's lawyer separately confirmed to Forum 18. Part 2 of the Article prescribes punishment for repeat "offenders", with prison terms of between five and 10 years.

On 2 July a court in Kazakhstan's commercial capital Almaty sentenced Sunni Muslim prisoner of conscience Saken Tulbayev to four years eight months' imprisonment in a general regime labour camp under Criminal Code Article 174, Part 1, according to the verdict seen by Forum 18. The court also found him guilty under Criminal Code Article 405, Part 2 (participation in a banned religious movement) and punished him with one year's imprisonment (to run concurrently) and a ban on "activity directed at meeting the religious needs of believers" between his scheduled release from prison in December 2019 and December 2022. His family insist that publications used to prosecute him had been planted by police in the family flat (see F18News 8 July 2015 http://www.forum18.org/archive.php?article_id=2078).

This Article of the current Criminal Code – which came into force on 1 January 2015 – replaced Article 164 of the previous Criminal Code under which both Astana-based retired Presbyterian Pastor Bakhytzhan Kashkumbayev and Ridder-based atheist writer Aleksandr Kharlamov were investigated (see F18News 10 June 2015 http://www.forum18.org/archive.php?article_id=2072).

Among earlier cases, Article 164 of the then Criminal Code was also used to convict a Protestant preacher, Sarybai Tanabaev, who was given a two-year suspended sentence in June 2009 in the southern city of Taraz (see F18News 5 November 2009 http://www.forum18.org/Archive.php?article_id=1372).

"Merely a witness to his arrest"

The KNB secret police Investigator leading the case is Nurlan Belesov, his colleague Investigator Diyar Idrishov told Forum 18 from Astana on 19 August. "I was merely a witness to his arrest and am not involved in the investigation," he said, before putting the phone down.

The man who answered Investigator Belesov's phone at Astana KNB on 20 August – who did not give his name – repeatedly put the phone down as soon as Forum 18 asked about Kabduakasov's case.

Investigator Belesov is believed to be the officer in Astana KNB with responsibility for keeping the city's Christian congregations under surveillance, those familiar with his activity told Forum 18.

Reached on the evening of 19 August, the duty officer at the KNB secret police Investigation Prison – who would not give his name – repeatedly refused to give Forum 18 any information about Kabduakasov, without giving any reason. The officer would only confirm that Kabduakasov is still alive. The duty officer on 20 August similarly refused to give any information.

Kabduakasov's prison address:

SIZO KNB g. Astana

010003 Astana

Ul. Shyntas 2

Kazakhstan

Koran, Namaz calendar refused

Meanwhile, the 46-year-old Sunni Muslim prisoner of conscience Tulbayev is likely to remain in the Investigation Prison in Almaty until the appeal against his conviction is heard, his sister Feruza Tulbayeva and wife Rumina Fakhrudinova told Forum 18 from the city on 20 August. He was told he could then be sent to a prison camp some distance from Almaty to serve his sentence.

"Saken spent 16 days alone in the punishment cell, from 7 to 23 July," they complained. "Now he is back in a three-person cell."

Ayman Umarova, Tulbayev's lawyer who met him in prison on 13 July, described the prison to Forum 18 three days later as "awful".

She added that "I cannot imagine what the conditions in the incarceration room are" (see F18News 17 July 2015 http://www.forum18.org/archive.php?article_id=2082).

Because the marriage of Tulbayev and his wife was not registered with the state, she is not regarded as a relative and cannot thus apply to see him in prison, Fakhrudinova lamented to Forum 18. She added that his sister and mother can apply to the Investigator for permission to visit and are preparing to do so.

Family members have been able to hand in food parcels for him, but prison officials have twice refused to accept a Koran and a calendar giving the times for the namaz (Muslim prayers), his wife Fakhrudinova complained. "They said he is not allowed to have such literature." She believes, however, that he has been able to have some access to a Koran.

Tulbayev's verdict was handed down on 2 July, but the written decision (seen by Forum 18) was handed to him in prison only on 7 July, the day he began his punishment cell term. His sister and wife say the Judge handled the case with so many violations of the law, and that the lawyer is preparing various challenges. No appeal against the verdict itself has yet been heard by Almaty Regional Court.

Prisoner of conscience Tulbayev is being held in:

Almaty Investigation Isolation Prison No. 1 LA 155/1

050004 Almaty Region

Almaty

Prospekt Seifullina 473

Kazakhstan

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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=1939.

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