

2 November 2015

KAZAKHSTAN: Last days for embattled mosque?

By Felix Corley, Forum 18

Without informing the community that regained the half-ruined building and restored it as a mosque in 1999, and continues to worship there, North Kazakhstan Region authorities have offered for tender the Din-Muhammad Tatar-Bashkir Mosque in Petropavl, according to the rental tender seen by Forum 18 News Service. The only eligible bidder is Kazakhstan's state-backed Muslim Board, to which the community does not belong. "An elderly lady in the community came running to us to say her son had found the announcement on the internet," community chair Ibragim Akhmedjanov told Forum 18. "She was shocked, and so is the whole community." But Kaziza Mukhamediyeva of the Regional Finance Department, which is putting up the building for auction, rejects any complaints. "It's not the property of that community," she told Forum 18. "Their praying there is illegal." Meanwhile a year after the United Nations Human Rights Committee ruled that Kazakhstan had violated the human rights of Viktor Leven, a Baptist, by punishing him for participating in a religious meeting, the authorities have rejected his attempts to have them abide by their obligations.

Sixteen years after the Tatar-Bashkir Muslim community in Petropavl [Petropavlovsk] in North Kazakhstan Region in 1999 regained the historic but half-ruined Din-Muhammad Tatar-Bashkir Mosque, fully renovated it and held the first namaz, the community appears days away from losing it, Forum 18 News Service has learned. Without informing the community, the authorities put the "former mosque" up for auction, with the successful bidder to be chosen on the morning of 5 November.

The only eligible Muslim bidder is Kazakhstan's state-backed Muslim Board, to which the community does not belong. Only mosques which are Sunni Hanafi and under the Board's control are allowed by the state to exist. Apart from the Din-Muhammad Mosque, all other independent mosque communities have been either closed or taken over by the Board, which takes one third of their income (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/Archive.php?article_id=1939).

North Kazakhstan Regional Property and Privatisation Committee awarded the Din-Muhammad Mosque to the community "for free ownership" on 17 March 1999, according to the document seen by Forum 18.

"The Mosque was the property of our community, then they denied us re-registration and liquidated us," community chair Ibragim Akhmedjanov, who helped renovate the Mosque in the 1990s, told Forum 18 from Petropavl on 2 November. "Then they said the building had no owner and they seized it. Now they're offering it to the Muslim Board, but what right does the Muslim Board have to our Mosque? The Mosque is still functioning and we worship there regularly."

Meanwhile, courts in the capital Astana have rejected a suit by Council of Churches Baptist Viktor Leven. He is trying to get the General Prosecutor's Office to implement a 2014 decision by the United Nations Human Rights Committee that fining him and ordering his deportation for attending a meeting for worship violated his rights (see below).

Increasing numbers of freedom of religion or belief prisoners of conscience

Criminal trials and jailings of those who exercise their right to freedom of religion or belief continue. Seventh-day Adventist Yklas Kabduakasov – whose trial in Kazakhstan's capital Astana resumes tomorrow afternoon (3 November) – faces between five and 10 years in prison if convicted on charges of spreading "religious discord" when discussing his faith with and offering Christian books to others. He and fellow church members insist he is innocent of the charges. Five members of the Tabligh Jamaat Muslim missionary movement, many of whose members are prisoners of conscience for their beliefs, are in pre-trial detention in Astana (see F18News 13 October 2015 http://www.forum18.org/archive.php?article_id=2110).

On 2 July in Kazakhstan's commercial capital Almaty, Saken Tulbayev (who was tortured) was sentenced to four years eight months' imprisonment. He was also banned from exercising freedom of religion or belief, including praying with others and reading the Koran, until the end of 2022 (see F18News 8 July 2015 http://www.forum18.org/archive.php?article_id=2078).

Denied state permission to exist

Following the 2011 Religion Law, Petropavl's Tatar-Bashkir Mosque community was among the many religious communities

arbitrarily denied the compulsory re-registration that followed.

The Din-Muhammad Mosque, which mainly serves ethnic Tatars, was built in 1852, forcibly closed down in the 1930s under Stalin, and reopened after the community regained it in 1999. The state-backed Muslim Board insists that only the Sunni Hanafi school of Islam is allowed, with all other approaches being banned, and that all mosques must be controlled by the Board (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

The Mosque is Sunni Hanafi but independent of the state. All independent mosques, like the Din-Muhammad Mosque, have come under severe state pressure – including threats to use bulldozers - to close or be taken over. The Mosque may possibly be the last remaining publicly-accessible mosque independent of the state-backed Muslim Board (see F18News 2 October 2013 http://www.forum18.org/archive.php?article_id=1882).

On 28 April the regional Justice Department again rejected the Mosque's latest registration application, claiming unspecified information in it was "untruthful". Mosque community members think that the 7 June death from a heart attack of the community's Imam, Rafael Ryazapov, was caused by heavy state pressure on the mosque and its members. On the first day of Ramadan (and 11 days after Imam Ryazapov's death), Mosque community members could not meet for night prayers as the authorities cut off the electricity supply (see F18News 17 July 2015 http://www.forum18.org/archive.php?article_id=2082).

"Former mosque" to be auctioned

Unbeknown to the Tatar-Bashkir Muslim community, North Kazakhstan Region's Finance Department put up their Mosque building for auction on 20 October, according to the announcement posted on the website of the Finance Ministry. It described the building as "a main building of a former mosque of 209 square metres [2,250 square feet] and an extension of 90 square metres [970 square feet]" which it said is owned by North Kazakhstan Region's Culture, Archives and Documentation Department.

The auction is for bids to rent the building for three years, with a starting price of 148,155 Tenge (4,500 Norwegian Kroner, 475 Euros or 525 US Dollars). However, bidding is limited to religious organisations registered in Kazakhstan, according to the announcement seen by Forum 18.

As the authorities have allowed only one Muslim religious organisation in the whole of Kazakhstan to gain state registration since the compulsory re-registration following Religion Law changes in 2011 – the state-backed Muslim Board – the auction is likely to attract only one bidder. It remains unclear whether a religious community of another faith could bid to rent the building and then allow the Tatar-Bashkir Mosque community to continue to use it.

Mosque community members discovered the auction only by chance on 28 October. "An elderly lady in the community came running to us to say her son had found the announcement on the internet," Akhmedjanov told Forum 18. "She was shocked, and so is the whole community." He said the community immediately called a meeting on 29 October and has been trying to call officials to have the decision changed.

"There have been court and prosecutor's office decisions"

Lyudmila Sorokotyaga, head of the Cultural Heritage and Legal Department of the Regional Department, acknowledged to Forum 18 that the Tatar-Bashkir community renovated and has been caring for the historic building. "I and colleagues have been there, of course," she told Forum 18 from Petropavl on 2 November. "There is a community and services take place there. Everything is clean and in order, and we have no complaints about the way the community has protected the historical look of the monument."

However, Sorokotyaga dismissed suggestions that the building is set for confiscation from the community. "According to the documents the building is a monument and the state owns it now," she told Forum 18. "And people cannot be deprived of property just like that – there have been court and prosecutor's office decisions."

Sorokotyaga insisted the concerns of her Department focus solely on whether the building is being protected as a monument. She said the initiative for the auction came from the Finance Department, and in particular a Deputy Head Marat Zhambaliyev.

Colleagues of Zhambaliyev at the Finance Department told Forum 18 on 2 November that he is on leave for a further two weeks.

"Their praying there is illegal"

Kaziza Mukhamediyeva, the other Deputy Head of the Regional Finance Department, defended the auction. "The building is not being confiscated – it's state property," she insisted to Forum 18 from Petropavl on 2 November. "It's not the property of that community," she added, when asked how the place of worship can be taken away from the Tatar-Bashkir Muslim community which renovated the building in the 1990s and still uses it for worship. "Their praying there is illegal."

Mukhamediyeva would not explain how praying in the place of worship built as a mosque 160 years ago and which the community

has been using since it regained ownership after the end of the Soviet period could be illegal.

Although the North Kazakhstan Region's Finance Department is putting up the building for auction, Akhmedjanov and other community members believe the man behind the decision is Muratbek Zeynullin, head of the Regional Religious Affairs Department.

Despite Forum 18's repeated calls on 2 November, Zeynullin refused to explain how a place of worship being used by one religious community – which regained it after the communist period and renovated it themselves – can be seized and handed to another religious community.

The telephone of Galym Shoikin, Chair of the Culture and Sport Ministry's Religious Affairs Committee in Astana, went unanswered on 2 November despite repeated calls.

United Nations says fine and deportation order were violation

On 21 October 2014, the United Nations Human Rights Committee ruled that the fine and deportation order handed down on Leven, a Baptist from Esil in Akmola Region, for participating in a meeting for worship in 2009 had violated his human rights under the International Covenant on Civil and Political Rights (CCPR/C/112/D/2131/2012).

The Kazakh-born Leven held German citizenship from 1992 and, since his return to Kazakhstan in 2000, has been a member of a Council of Churches Baptist congregation in Esil that meets for worship without state registration. The authorities accused him of being a "missionary" because, as a foreign citizen, he was present at a local meeting for worship without being registered with the state as a "missionary".

Leven was found guilty in October 2009 under Article 375, Part 3 of the then Administrative Code. He was ordered deported and also fined 6,480 Tenge (then 238 Norwegian Kroner, 29 Euros or 43 US Dollars). This decision was annulled by Akmola Regional Court in November 2009, but was reinstated after prosecutors complained. The Supreme Court refused to hear Leven's case, and the General Prosecutor's office also refused to re-examine a complaint he made about the way his case was treated (see F18News 8 February 2010 http://www.forum18.org/Archive.php?article_id=1405).

Leven renounced his German citizenship in 2009 as required before applying for Kazakh citizenship, but this was rejected in 2010 (see F18News 31 March 2010 http://www.forum18.org/Archive.php?article_id=1427). He was later able to regain his German passport, but his residence permit was never renewed.

Leven submitted his appeal to the Human Rights Committee in January 2012 and was represented by Anastasiya Miller of the Kazakhstan International Bureau for Human Rights and the Rule of Law.

Unanimous decision

The Committee unanimously found that Kazakhstan had violated Leven's rights in punishing him. "The Committee concludes that the punishment imposed on the author [Leven], and in particular its harsh consequences for the author, who is facing deportation, amount to a limitation of the author's right to manifest his religion under [ICCPR] article 18, paragraph 1; that the limitation has not been shown to serve any legitimate purpose identified in article 18, paragraph 3; and neither has the State party shown that this sweeping limitation of the right to manifest religion is proportionate to any legitimate purpose that it might serve."

And the Committee added: "In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including review of his conviction and review of the cancellation of his residence permit. The State party is also under an obligation to prevent similar violations in the future."

Despite this clear decision, Kazakhstan's authorities failed to take any action either to restore Leven's rights or to change the law to prevent further similar violations.

Unfulfilled promises

"In spring of this year the Esil Prosecutor's Officer summoned me and said they would resolve the problems," Leven told Forum 18 from Esil on 2 November. "They called me again in the autumn and repeated their assurance, but nothing happened. They then told me that the General Prosecutor's Office won't accept any proposals."

Leven tried to challenge the failure of the General Prosecutor's Office to ensure he regains his residence permit and the original punishment is revoked. With the help of Astana-based lawyer Bauyrzhan Azanov he lodged a case at Astana's Esil District Court. However, on 7 September Judge Laura Isabekova rejected his suit, according to the decision seen by Forum 18.

Leven lodged a further appeal to Astana City Court. However, on 27 October, Judge Marat Manabayeva dismissed his appeal,

according to the decision seen by Forum 18. "The Judge didn't even hold a hearing," Leven complained. "My lawyer was there before the appointed time and she just said she had already issued the decision."

An official at Astana City Court refused to put Forum 18 through to Judge Manabayeva on 2 November. "No one can talk to the judges – it is not allowed," she insisted.

The telephone of Saltanat Tuizhanova of Astana City Prosecutor's Office, who opposed Leven's suit in court, went unanswered each time Forum 18 called on 2 November.

The press secretary at Astana City Prosecutor's Office told Forum 18 that she cannot discuss cases by phone and can only answer written enquiries.

Further appeal

Leven told Forum 18 he has asked his lawyer Azanov to lodge a further appeal to Astana City Court. The appeal is still being prepared and has not yet been lodged. "They took my residence permit away from me," Leven told Forum 18. "In line with the United Nations decision, all I want is for them to return it. What they deprived me of they should return. Then I could at least try again to gain Kazakh citizenship." He added that he never paid the fine, so no money can be restituted.

No passport, no child support

Leven noted that his wife Yelizaveta too has suffered from the authorities' targeting. While he was able to regain his German passport which he had renounced when he was trying to get Kazakh citizenship, she remains without any citizenship. "They keep saying her request for citizenship is with the president for signature, most recently in February 2015. But they never give it," Leven lamented.

Yelizaveta Leven told Forum 18 she had not applied to regain her German passport as the Kazakh authorities kept promising they would issue her with a Kazakh passport.

Viktor Leven added that their eight children were all born in Kazakhstan and have Kazakh birth certificates. The eldest is only 14 and it is only when they reach the age of 16 that it will be known if the authorities will withhold Kazakh passports from them too.

Because neither husband nor wife are Kazakh citizens, they are denied state financial support for their children.

"No mechanism" to correct human rights violations

The General Prosecutor's Office has "no mechanism" to correct human rights violations, for example violations pointed out by United Nations human rights agencies, an individual involved in Leven's case complained to Forum 18 on 2 November.

Similarly, the Kazakhstan International Bureau for Human Rights and the Rule of Law also complained about the country's failure to implement its obligations. "At present, no body has been created in Kazakhstan which could oversee the implementation of decisions by international human rights agencies, but this does not free the state from implementing the obligations taken on itself voluntarily," it maintained in a 7 September statement about Leven's case.

The Bureau noted that as of May 2015, only two of six decisions by the UN Committee Against Torture had been partially implemented, while no decision from the UN Human Rights Committee had been implemented.

No one at the General Prosecutor's Office was available on 2 November to explain why Kazakhstan is not implementing the decisions of the UN human rights mechanisms, including in Leven's case, and its other human rights obligations. (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=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.

A printer-friendly map of Kazakhstan is available at

<http://education.nationalgeographic.com/mapping/outline-map/?map=Kazakhstan>.

All Forum 18 News Service material may be referred to, quoted from, or republished in full, if Forum 18 is credited as the source.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY