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KAZAKHSTAN: Harsher laws planned as 89-year-old fined

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

Kazakhstan's President orders harsher Religion Law drafted by mid-August, as fines for exercising freedom of religion or belief continue. 89-year-old Baptist Yegor Prokopenko was again fined for leading his community, while an Atyrau giftshop owner was fined for offering four Korans for sale.

At the age of 89 and a half, former Soviet-era Baptist prisoner of conscience Yegor Prokopenko has again been fined for leading a meeting for worship. He is believed to be the oldest victim of Kazakhstan's policy of fining those who exercise the right to freedom of religion or belief without state permission. Two Protestants in the same city were fined for drinking tea in a cafe after a Sunday meeting for worship. A giftshop owner in Atyrau was fined for offering four copies of the Koran for sale without a state licence, which the judge deemed would have "harmful consequences". With Kazakhstan's president ordering harsher restrictions in the Religion Law to be prepared by mid-August, with likely new associated punishments in the Code of Administrative Offences, exercise of the right to freedom of religion or belief seems set to be punished even more widely.

Prokopenko's fine is the first known use of summary police powers, introduced with 2015 Administrative Code changes, to fine people for exercising freedom of religion and belief without an initial court hearing (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

Since December 2014, 32 people are known to have been given criminal convictions for exercising the right to freedom of religion or belief. Most of these have been imprisoned (see F18News 8 June 2016 http://www.forum18.org/archive.php?article_id=2186). Many, including prisoners of conscience jailed for exercising freedom of religion and belief, have also had their bank accounts frozen and been forced to pay for prosecution "expert analyses" used to convict them (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

Wide-ranging legal amendments ordered

Following killings in the north-western city of Aktobe [Aqtobe] on 5 June, President Nursultan Nazarbayev was quick to blame "followers of the non-traditional religious movement of Salafism". He produced no evidence for his claim, but told a meeting of the Security Council in the capital Astana on 10 June that in response legal changes would be made to a range of laws "to ensure national security". Under Kazakhstan's international human rights obligations, "national security" is not a permissible reason to restrict freedom of religion and belief.

President Nazarbayev instructed the government "within a two-month period to draft a package of legislative initiatives in the sphere of countering terrorism and extremism, production, storage and sale of weapons, in the area of regulating migration and religious associations", according to the presidential website. He added that it is "necessary" to include the entire legislative package in the legislative plan for 2016.

When wide-ranging increased restrictions on freedom of religion and belief were imposed in the 2011 Religion Law along with changes to other laws, they were introduced into parliament on 5 September 2011 and in a rushed process with little discussion were signed into law on 11 October, despite strong criticism from national and international human rights defenders. Officials claimed the restrictions breaking international human rights obligations and the rushed process were needed as counter-terrorism measures (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

"To limit as far as we can the possibility to conduct illegal meetings"

Also on 10 June, Galym Shoikin, the head of the Culture and Sport Ministry's Religious Affairs Committee told the Expert discussion club in Astana that his Committee is already working on amendments to the 2011 Religion Law. He noted that the Law already determines that many activities in the area of religion are "illegal".

"We want here to widen the norms set out in order to limit as far as we can the possibility to conduct illegal meetings, including in flats and other premises," the local media quoted Shoikin as declaring. "We have a mechanism, but it needs to be strengthened from

the point of view of widening."

Shoikin noted that under the 2011 Religion Law, holding meetings away from state-registered places of worship requires permission from the local Akimat (administration). "At present many, for example Protestant Christian organisations, practice this, they agree this with Akimats and hold such events," he said. "We simply want to tighten the requirements and make them more precise."

Shoikin said he was unable to expand on the details, as the proposals need to be discussed with deputies of the Majilis (parliament). He claimed that "we will take into account international legal acts on the freedom of the individual", as well as legal practices in other countries.

Shoikin claimed that recruitment of religious radicals "takes place not in mosques but at such illegal meetings. We must study how it is possible to restrict this." He added that this task was handed to his Committee only several days earlier. He gave no deadline for presenting any proposed amendments to the Religion Law.

Muslim Board and state officials earlier claimed to Forum 18 that allowing independent mosques to exist "will breed terrorists". But officials have not produced proof for these assertions (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Violating international human rights obligations

Kazakhstan's 2011 Religion Law already violates the country's international human rights obligations. It bans meetings for worship by communities without state approval, meetings for worship in venues that have not been approved, distribution of books about religion and other religious items without state approval or in venues that do not have state approval for religious literature distribution, and discussing religion with others if the individual does not have state approval as a "missionary". These bans are backed up by punishments in the Administrative Code (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

The government's human rights record has been strongly criticised by 12 Kazakh human rights defender organisations in a submission to the UN Human Rights Committee. Among their many observations, the human rights defenders note that the Religion Law's ban on the exercise of freedom of religion and belief without state permission "represent a direct violation of the right to freedom of religion and Article 18 of the ICCPR" [International Covenant on Civil and Political Rights]. The Human Rights Committee is due to consider the government's record in Geneva on 22 and 23 June (see F18News 8 June 2016 http://www.forum18.org/archive.php?article_id=2186).

Religion Law changes to be open to public discussion?

The amendments to the Religion Law are being prepared by the Legal Department of the Religious Affairs Committee, an official of the Department told Forum 18 from Astana on 13 June. Once the Committee has prepared the initial draft amendments, they will be reviewed by other "relevant structures", including the Interior Ministry, the National Security Committee (NSC) secret police and the Prosecutor's Office, the official added.

The official did not say whether or not the Religious Affairs Committee is involved in preparing any associated amendments to the Criminal Code or Administrative Code to increase penalties for exercising the right to freedom of religion or belief or to widen the scope of such "crimes" or "offences".

The official noted that the amendments being drafted stemmed from a "political decision" and followed President Nazarbayev's instruction.

The official refused to identify what proposed changes are likely to be in the amendments. When Forum 18 pointed out that the 2011 Religion Law already violates many of Kazakhstan's international commitments in the area of freedom of religion or belief, freedom of association and freedom of speech, the official declined to comment.

The official claimed to Forum 18 that during the consideration phase, the proposed amendments will be opened up to public discussion. However, the official declined to say how long any public discussion will last and whether comments from the public will be taken into account.

Administrative Code amendments underway

At the beginning of 2016, a year after the latest Administrative Code came into force on 1 January 2015, the Justice Ministry established a working group to propose amendments to the Administrative Code, sources in Astana told Forum 18. Initially the Ministry was said to be planning to soften some of the punishments, including those for exercising the right to freedom of religion and belief. The latest Administrative Code – along with new Criminal as well as Criminal Implementation Codes – were introduced despite strong protests from many local human rights defenders. For example, human rights defender Yevgeni Zhovtis described the

Codes as being "like a baton, to use as a threat against those the state does not like" (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

After the 5 June 2016 killings in Aktobe and the President's 10 June order to tighten laws and punishments, the Justice Ministry review is likely – among other changes – to widen and increase punishments for exercising the right to freedom of religion or belief, sources told Forum 18.

The Religious Affairs Committee is likely to contribute to any Administrative Code amendments. However, drafting is likely to be in the hands of the Justice Ministry, with consultation from the Interior Ministry, NSC secret police and Prosecutor's Office.

89-year-old fined for leading worship

The 89-year-old Prokopenko – who leads a Council of Churches Baptist congregation in Zyryanovsk in East Kazakhstan Region – was again fined.

On 22 May local police officer Dulat Baydindoyev led a raid on the home where the church was holding Sunday morning worship. He was accompanied by three men in civilian clothes, one church member who was present told Forum 18 on 13 June. Officers filmed church members at worship and questioned them after the service was over.

Later in the day Officer Baydindoyev returned with a record of an offence against Prokopenko under Administrative Code Article 489, Part 9. This punishes "Leadership of an unregistered, halted, or banned religious community or social organisation". Baydindoyev fined Prokopenko 100 Monthly Financial Indicators (MFIs), 212,100 Tenge (5,200 Norwegian Tenge, 550 Euros or 625 US Dollars). Officer Baydindoyev also gave Prokopenko a form showing him how to pay. This is the first known use of new summary police powers to fine people without an initial court hearing (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

Were Prokopenko in work, this fine would represent two or three months' average wage. However, he has been a pensioner since before Kazakhstan gained independence in 1991.

Prokopenko rejected all accusations of wrongdoing and refused to sign any documents, church members told Forum 18.

Officer Baydindoyev defended the raid on the church. "We didn't raid," he claimed to Forum 18 from Zyryanovsk on 13 June. "We arrived after the service." He said he had been accompanied by a cameraman from the police, an officer from the Criminal Investigation Department and a Prosecutor's Office official. He insisted the church was wrong to meet because it does not have state registration. "We filmed them after the service because Prokopenko refused to sign the record." Officer Baydindoyev then put the phone down.

Article 489, Part 9 gives police the right to fine individuals with no court hearing (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

Council of Churches Baptists refuse on principle to seek state permission to be able to meet for worship. They are routinely fined for leading or attending such worship. They also have a policy of civil disobedience, refusing to pay such fines. This often leads to short-term prison sentences, confiscation of property and a ban on leaving Kazakhstan (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Prokopenko appealed to Zyryanovsk District Prosecutor Konstantin Pichugin. However, on 3 June the Prosecutor's Office rejected his complaint, Prosecutor Talgat Tudubekov told Forum 18 from Zyryanovsk on 13 June. The Regional Prosecutor's Office is now considering a further appeal, he added. Prokopenko also has the right to appeal to court.

Prokopenko 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).

Prokopenko was aged 87 and three months when he was last fined two weeks' average wages in February 2014. He was also put on the exit ban list for refusing to pay his fine. In court he denied any wrongdoing, insisting that members of a religious community may have the right to form a religious association but are under no obligation to do so. The judge dismissed his views and punished him (see F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937).

Meeting in unapproved venues

On 23 March, Astana's Jehovah's Witness community observed the Memorial of Christ's death – their most important annual commemoration – at rented premises in a trade centre. Afterwards, local police and Religious Affairs Department officials

interrogated community members and began preparing an administrative case against them for not confirming that location for a religious meeting with the Religious Affairs Department.

"It is noteworthy that Astana city administration officially seized the community's house of worship just a few months earlier under the pretext of a city utility project," Jehovah's Witnesses complained. "Now the community has no official place to meet together for worship."

Fined for drinking tea after worship

Two members of New Life Protestant Church in the Caspian port of Atyrau, Bagitzhan Zholdybayev and Aleksandr Revkov, have been fined for drinking tea in a cafe with five other church members after their Sunday meeting for worship on 17 April.

After detaining and questioning the seven church members, Religious Affairs Department official Kairulla Kuskaliyev prepared records of an "offence" against the two under Article 490, Part 1, Point 1. This punishes "violation of procedures established in law for conducting rites, ceremonies and meetings" with a fine for individuals of 50 MFIs.

In separate hearings at Atyrau's Specialised Administrative Court on 26 May, Judge Zamira Bainazarova fined both Zholdybayev and Revkov, according to the court decisions seen by Forum 18. Given their disability (both are deaf) the Judge reduced the fines by 30 per cent to 74,235 Tenge each and issued a ban on their unspecified activity for three months.

Both Zholdybayev and Revkov denied any wrongdoing in court, but Religious Affairs official Kuskaliyev insisted on their guilt. He explained that their rights had been explained to them using a sign language interpreter.

Shop owner fined for selling Korans

Booksellers are frequently fined for selling religious literature and other materials – such as icons – without licences. In May 2013, four books confiscated from a bookseller in East Kazakhstan Region – including two with prayers to Russian Orthodox saints Serafim of Sarov and Sergius of Radonezh – were ordered destroyed when the bookseller was fined (see F18News 15 November 2013 http://www.forum18.org/archive.php?article_id=1896).

After a raid by officials of Atyrau Region Religious Affairs Department, owner of an Atyrau giftshop Tatyana Pastukhova was fined for offering for sale four copies of the Koran without the state licence needed before any sale of religious literature or materials is lawful.

At her eight-minute trial at Atyrau's Specialised Administrative Court on 25 February, Pastukhova admitted her "guilt". Nevertheless, Judge Bainazarova observed that selling religious literature without a state licence would have "harmful consequences", according to the decision seen by Forum 18.

The Judge found Pastukhova guilty under Administrative Code Article 490, Part 1, Point 3. This punishes: "Violating the requirements of the Religion Law for .. import, production, publication and/or distribution of religious literature and other religious materials, and items for religious use". The punishment for individuals is a fine of 50 MFIs.

Pastukhova's fine was reduced by 30 per cent for mitigating circumstances (her expression of regret) to 74,235 Tenge and a ban on activity for three months. The Judge ordered that the four Korans should be returned to Pastukhova.

Pastukhova did not appeal against the sentence to Atyrau Regional Court.

Fined for discussing faith

Individuals are frequently fined under Administrative Code Article 490, Part 3 for talking about their faith with others. This punishes: "Carrying out missionary activity without state registration (or re-registration), as well as the use by missionaries of religious literature, information materials with religious content or religious items without a positive assessment from a religious studies expert analysis, and spreading the teachings of a religious group which is not registered in Kazakhstan". The punishment is a fine of 100 MFIs, with deportation if the individual is a foreign citizen.

On 25 April, Oral (Uralsk) Specialised Administrative Court in West Kazakhstan Region found Jehovah's Witness Dina Sarsebekova guilty of "illegal" missionary activity and fined her 100 MFIs, 212,100 Tenge. Her appeal was rejected in May (see F18News 13 May 2016 http://www.forum18.org/archive.php?article_id=2177).

On 6 April, a representative of Semei City administration in East Kazakhstan Region issued a record of an offence of "missionary activity" to two Jehovah's Witnesses.

In January 2016, a Jehovah's Witness was convicted of "illegal missionary activity" in North Kazakhstan Region. He was fined 100

MFIs, 212,100 Tenge. (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.

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