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The right to believe, to worship and witness
The right to change one's belief or religion
The right to join together and express one's belief

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KAZAKHSTAN: 22nd known 2017 criminal conviction

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

Sunni Imam Abdukhalil Abduzhabbarov was jailed for eight years for inciting religious hatred "with serious consequences", charges he denied. He is the 22nd individual convicted in 2017. Seven others jailed have failed in their appeals. One of two criminal cases against atheist Aleksandr Kharlamov has been closed.

A court in Oral (Uralsk) in West Kazakhstan Region sentenced Sunni Muslim Imam Abdukhalil Abduzhabbarov on 16 August to eight years' imprisonment for sermons and talks he gave between 2004 and 2006. The prosecution claimed he incited religious discord "with serious consequences", charges he denied.

Abduzhabbarov's conviction brings to 22 the number of individuals known to have been given criminal convictions so far in 2017 to punish the exercise of freedom of religion or belief. Of these, 20 were Sunni Muslims and 2 Jehovah's Witnesses. Of the 22 (all of them men), 20 received prison terms and 2 received restricted freedom sentences, where they live at home under restrictions (see full list below).

Of the 20 convicted Muslims, 15 were accused of membership of the Tabligh Jamaat Muslim missionary group, which was banned by an Astana court in 2013 (see F18News 28 March 2016 http://www.forum18.org/archive.php?article_id=2162). The other five had all lived in Saudi Arabia for either work or study.

Seven other Sunni Muslims imprisoned earlier in 2017 in Astana and Atyrau for exercising freedom of religion or belief failed in their appeals in August. Astana City Court is due to hear the appeal of another, Satymzhan Azatov, on 12 September (see below).

The second of two criminal cases against atheist writer Aleksandr Kharlamov for his writings on religious themes was closed on 9 August. However, the first – opened in 2013 - is still open (see below).

Abduzhabbarov and the other prisoners of conscience whose sentences have not yet gone into force are likely to be added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism", thus blocking any bank accounts they might have, without any additional due legal process. Three more prisoners of conscience sentenced this year were added in July and August (see F18News 15 August 2017 http://www.forum18.org/archive.php?article_id=2307).

As individuals are not told when they are added to the List, they normally only find out they have been added when they or relatives attempt to withdraw money from their bank (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

Abduzhabbarov: Eight year prison term

On 16 August, at the end of a long trial in Oral in West Kazakhstan Region, Judge Ruslan Zhumagulov of Oral City Court found Imam Abdukhalil Abduzhabbarov guilty of inciting religious discord "with serious consequences" in recordings of his sermons and talks given in 2004 to 2006. The Judge handed down an eight year general regime prison term, according to the local media.

Judge Zhumagulov convicted Imam Abduzhabbarov under Article 164, Part 3 of the old Criminal Code which was in force when the Imam allegedly committed his "crimes". Article 164, Part 3 carried a maximum prison term of 12 years and the possibility of a post-prison ban on activity. That Article is equivalent to Article 174, Part 3 of the current Criminal Code, which came into force in 2015 but which carries an even longer maximum prison term.

Imam Abduzhabbarov originally also faced charges under Criminal Code Article 256, Part 2 ("Propaganda of terrorism"), but these were dropped.

Imam Abduzhabbarov lived and worked in Saudi Arabia for ten years. The National Security Committee (NSC) secret police arrested him, extradited from Saudi Arabia at Kazakhstan's request, as he arrived at Almaty Airport on 18 February. He was then transferred to Oral in West Kazakhstan Region. His wife Dinara and their ten children went to stay with relatives in Shymkent in

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South Kazakhstan Region (see F18News 21 February 2017 http://www.forum18.org/archive.php?article_id=2259).

Imam Abduzhabbarov's trial began at Oral City Court on 25 July. He denied any wrongdoing, while the Prosecutor demanded an eight-year prison term. Most of the trial was open, but parts were closed when some of the 27 "witnesses" were questioned.

"Abduzhabbarov, using the nickname Sheikh Khalil, called on Muslims to designate as 'kafirs' [unbelievers] those Muslims who do not pray the namaz and not to buy meat from 'kafirs', and also called for jihad," Prosecutor's Office official Kairat Daukenov claimed in the indictment read out in court.

In his closing address to the court on 15 August, Imam Abduzhabbarov insisted that he had told the truth during the investigation and the trial. "Respected court," he declared, "if I have offended you during the trial I ask you to forgive me. All I wanted to do is defend myself before the law."

Imam Abduzhabbarov complained that he was being asked to pay for a "false and non-objective expert analysis" of his recorded sermons which was used as part of the prosecution case. He also refused to pay for the lawyer the state initially assigned to him as well as for the translator.

Imam Abduzhabbarov spent at least ten days in the Investigation Prison punishment cell in late June for praying and fasting in Ramadan. While in the punishment cell he was given only black bread and water, and had to stand (see F18News 13 July 2017 http://www.forum18.org/archive.php?article_id=2296).

Atyrau six: Appeals rejected

On 29 August a panel of three judges at Atyrau Regional Court rejected the appeals by six Sunni Muslims against their prison terms handed down on 28 June, the court chancellery told Forum 18 on 29 August. The appeal hearing was open, the official claimed. The men were not in court as they had submitted no request to be present, the official added.

All were convicted on criminal charges – initiated by the NSC secret police - of organising and participating in a "banned religious association", the Muslim missionary movement Tabligh Jamaat.

The six men, arrested in November 2016, were accused under Criminal Code Article 405, Parts 1 and 2.

Article 405, Part 1 punishes "organising the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out" with a fine or up to six years' imprisonment.

Article 405, Part 2 punishes "participation in the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out" with a fine or up to two years' imprisonment.

At the end of their trial at Atyrau City Court No. 2, the Judge handed the longest sentence to the man the prosecution regarded as the organiser, Rollan Arystanbekov. He was given a three-year general regime prison term. The Judge handed two-year general regime prison terms to each of the other five: Zhumabai Nurpeyis; Nurlan Ibrayev; Kanat Shaigozhanov; Nuralim Tyupeyev; and Ermek Akhmetov. All six were also banned from exercising freedom of religion or belief for up to three years after the completion of their prison terms (see F18News 30 June 2017 http://www.forum18.org/archive.php?article_id=2292).

Seytzhanov: Appeal rejected

On 16 August, Akmola Regional Court rejected the appeal of Sunni Muslim Nariman Seytzhanov against his imprisonment for exercising freedom of religion or belief, according to court records.

A court in Kokshetau sentenced Seytzhanov on 9 June to five years' imprisonment for breaking Criminal Code Article 174 ("Incitement of social, national, clan, racial, or religious discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity, committed publicly or with the use of mass media or information and communication networks, as well as by production or distribution of literature or other information media, promoting social, national, clan, racial, or religious discord") in talks he gave on Islam to pilgrims to Saudi Arabia (see F18News 15 June 2017 http://www.forum18.org/archive.php?article_id=2286).

Azatov: Appeal due

Astana City Court is due to hear the appeal by Sunni Muslim Satymzhan Azatov in the afternoon of 12 September, according to court records.

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On 10 July, Saryarka District Court No. 2 in Astana sentenced Azatov to a four year eight month prison term on charges of inciting religious discord and terrorism, charges he denied. He was the last of four Sunni Muslims who had studied their faith at a Saudi Arabian university to be jailed in 2017 (see F18News 13 July 2017 http://www.forum18.org/archive.php?article_id=2296).

Kharlamov: Second criminal case closed, but not first

The second of two criminal cases lodged against atheist writer and human rights defender Aleksandr Kharlamov has been dropped "for absence of a crime". Senior Investigator Denis Simonov confirmed the decision in writing on 9 August, in a document seen by Forum 18.

Kharlamov – who lives in the town of Ridder in East Kazakhstan Region - has been under investigation since 16 November 2016, when a case was launched against him under Criminal Code Article 174, Part 1 ("Incitement of religious discord").

He was being investigated for his writings on religion and beliefs, this time for a Russian-language book "Samaya genialnaya kniga" (The Most Brilliant Book) he published in 2014. Investigators confiscated 83 copies of it in a 2 February 2017 raid on his home in Ridder (see F18News 17 February 2017 http://www.forum18.org/archive.php?article_id=2258).

After two "expert analyses" in February 2017 claimed to have found that Kharlamov incited religious hatred, a further analysis was ordered from Almaty's Centre for Judicial Expert Analysis. This concluded on 1 July 2017 that he had not incited religious hatred.

"Kharlamov's actions do not contain the subjective side of the crime," Investigator Simonov wrote, "as he did not deliberately undertake actions directed at inciting social, national, clan, racial, or religious hatred or discord."

The telephone at Ridder Police Investigation Department went unanswered each time Forum 18 called on 29 August.

The first criminal case was opened against Kharlamov on similar charges in January 2013. Prosecutors claim to have found insults to members of various faiths in his writings, claims he denied. As part of that case he spent from March to September 2013 in pre-trial detention, including a month in a psychiatric hospital (see F18News 7 March 2017 http://www.forum18.org/archive.php?article_id=2262).

"The first criminal case is on the shelf, but it's still running," Kharlamov told Forum 18 from Ridder on 29 August. "We'll now try to get it closed down also and get the travel restrictions overturned. For five years I've been trying to gain justice – something has been achieved with the closure of the second case."

Kharlamov is also seeking the return of his confiscated books and other writings, he told Forum 18.

2017: 22 known criminal convictions for exercising freedom of religion or belief

Twenty two individuals (listed below) are known to have been convicted for exercising freedom of religion or belief in the first six months of 2017. The list does not include individuals known to have been punished under Criminal Code Article 174, but for whom it is unclear what the content of the material they distributed was.

1) Asaf Gadzhiaga ogly Guliyev; Jehovah's Witness; born 4 October 1973; arrested 18 January 2017; sentenced 24 February 2017 Astana's Saryarka Court No. 2; Criminal Code Article 174, Part 2; no appeal; 5 years' restricted freedom, plus bank accounts blocked.

2) Bakhytzhan Esimkhanovich Baimusayev; Sunni Muslim; born 15 November 1963; arrested at end of trial; sentenced 4 April 2017 Sairam District Court; Criminal Code Article 405, Part 1; no appeal; 4 years' imprisonment, plus four-year post-prison ban on activities, plus bank accounts blocked.

3) Abduvakhab Salibekovich Shakirov; Sunni Muslim; born 21 December 1962; arrested at end of trial; sentenced 4 April 2017 Sairam District Court; Criminal Code Article 405, Part 1; no appeal; 4 years' imprisonment, plus four-year post-prison ban on activities, plus bank accounts blocked.

4) Furkhat Farkhadovich Abatayev; Sunni Muslim; born 27 January 1965; arrested at end of trial; sentenced 4 April 2017 Sairam District Court; Criminal Code Article 405, Part 2; no appeal; 1 year imprisonment, plus two-year post-prison ban on activities, plus bank accounts blocked.

5) Abdivasit Abdikakharovich Abdirazakov; Sunni Muslim; born 28 August 1965; arrested at end of trial; sentenced 4 April 2017 Sairam District Court; Criminal Code Article 405, Part 2; no appeal; 1 year imprisonment, plus two-year post-prison ban on activities, plus bank accounts blocked.

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6) Murodzhon Abdivakhabovich Abdullayev; Sunni Muslim; born 21 January 1969; arrested at end of trial; sentenced 4 April 2017 Sairam District Court; Criminal Code Article 405, Part 2; no appeal; 1 year imprisonment, plus two-year post-prison ban on activities, plus bank accounts blocked.

7) Zhenisbek Erakhmetovich Manbetov; Sunni Muslim; born 16 July 1983; arrested at end of trial; sentenced 4 April 2017 Sairam District Court; Criminal Code Article 405, Part 2; no appeal; 1 year imprisonment, plus two-year post-prison ban on activities, plus bank accounts blocked.

8) Meirambek Amalbekuli Sarymsak; Sunni Muslim; born 8 March 1965; arrested at end of trial; sentenced 4 April 2017 Sairam District Court; Criminal Code Article 405, Part 2; no appeal; 1 year imprisonment, plus two-year post-prison ban on activities, plus bank accounts blocked.

9) Kuanysh Ablayevich Bashpayev; Sunni Muslim; born 3 February 1987 ; arrested 12 October 2016; sentenced 7 April 2017 Pavlodar City Court No. 2; appeal 15 June 2017 Pavlodar Regional Court modified labour camp provision; Old Criminal Code Article 164, Part 1 (equivalent to Article 174, Part 1 of new Code); 4 and a half years' imprisonment, plus bank accounts blocked.

10) Teymur Sultan ogly Akhmedov; Jehovah's Witness; born 7 May 1956; arrested 18 January 2017; sentenced 2 May 2017 Astana's Saryarka Court No. 2; Criminal Code Article 174, Part 2; appeal rejected 20 June 2017 Astana City Court; 5 year prison term, plus 3 year post-prison ban on exercise of religious freedom.

11) Denis Valeryevich Korzhavin; Sunni Muslim; born 21 May 1983; arrested 18 February 2017; sentenced 11 May 2017 Almaty's Almaly District Court; Criminal Code Article 174, Part 1; no appeal; 5 years' restricted freedom, plus bank accounts blocked.

12) Dmitry Valeryevich Tsilenko; Sunni Muslim; born 7 February 1991; arrested 5 October 2016; sentenced 12 May 2017 Kostanai City Court No. 2; Criminal Code Article 405, Part 1; appeal rejected 4 July 2017 Kostanai Regional Court; 3 year prison term, plus 278,038 Tenge fee, plus bank accounts blocked.

13) Nariman Kabdyrakhmanovich Seytzhanov; Sunni Muslim; born 2 May 1989; arrested 15 January 2017 (after earlier arrest in Kyrgyzstan); sentenced 9 June 2017 Kokshetau City Court; Criminal Code Article 174, Part 1; appeal rejected 16 August 2017 Akmola Regional Court; 5 year prison term, plus 91,693.58 Tenge fee.

14) Rollan Talgatovich Arystanbekov; Sunni Muslim; born 5 December 1981; arrested November 2016; sentenced 28 June 2017 Atyrau City Court No. 2; Criminal Code Article 405, Parts 1 and 2; appeal rejected 29 August 2017 Atyrau Regional Court; 3 year prison term, plus 2 or 3 year post-prison ban on exercise of religious freedom.

15) Zhumabai Shaikhyuly Nurpeyis; Sunni Muslim; born 23 July 1961; arrested November 2016; sentenced 28 June 2017 Atyrau City Court No. 2; Criminal Code Article 405, Parts 1 and 2; appeal rejected 29 August 2017 Atyrau Regional Court; 2 year prison term, plus 2 or 3 year post-prison ban on exercise of religious freedom.

16) Nurlan Amangeldyevich Ibrayev; Sunni Muslim; born 24 March 1977; arrested November 2016; sentenced 28 June 2017 Atyrau City Court No. 2; Criminal Code Article 405, Parts 1 and 2; appeal rejected 29 August 2017 Atyrau Regional Court; 2 year prison term, plus 2 or 3 year post-prison ban on exercise of religious freedom.

17) Kanat Serikovich Shaigozhanov; Sunni Muslim; born 30 November 1984; arrested November 2016; sentenced 28 June 2017 Atyrau City Court No. 2; Criminal Code Article 405, Parts 1 and 2; appeal rejected 29 August 2017 Atyrau Regional Court; 2 year prison term, plus 2 or 3 year post-prison ban on exercise of religious freedom.

18) Nuralim Archiyevich Tyupeyev; Sunni Muslim; born 13 November 1962; arrested November 2016; sentenced 28 June 2017 Atyrau City Court No. 2; Criminal Code Article 405, Parts 1 and 2; appeal rejected 29 August 2017 Atyrau Regional Court; 2 year prison term, plus 2 or 3 year post-prison ban on exercise of religious freedom.

19) Ermek Tursynbayevich Akhmetov; Sunni Muslim; born 18 March 1964; arrested November 2016; sentenced 28 June 2017 Atyrau City Court No. 2; Criminal Code Article 405, Parts 1 and 2; appeal rejected 29 August 2017 Atyrau Regional Court; 2 year prison term, plus 2 or 3 year post-prison ban on exercise of religious freedom.

20) Satymzhan Bagytzhanuli Azatov; Sunni Muslim; born 17 September 1989; arrested 4 January 2017; sentenced 10 July 2017 Astana's Saryarka Court No. 2; Criminal Code Article 174, Part 1 and Article 256, Part 1; appeal Astana City Court; 4 year and 8 month prison term.

21) Iliyan Raiymzhan; Sunni Muslim; born 8 February 1992; arrested April 2017; sentenced 1 August 2017 Tekeli City Court; Criminal Code Article 405, Parts 1 and 2; 4 year prison term, plus 2 and a half years' post-prison ban on exercise of religious freedom.

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22) Abdukhalil Abdukhamidovich Abduzhabbarov; Sunni Muslim; born 6 April 1975; arrested 18 February 2017; sentenced 16 August 2017 Oral City Court; Old Criminal Code Article 164, Part 3 (equivalent to Article 174, Part 3 of new Code); 8 year prison term.

One criminal case for exercising freedom of religion or belief is open:

1) Aleksandr Milentievich Kharlamov; atheist; born 2 July 1950; under travel restrictions in Ridder; under investigation since January 2013; Criminal Code Article 174, Part 1. (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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