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KAZAKHSTAN: "They can meet and pray to God, but the Law says they have to register"

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

Two brothers from Kazakhstan, both Baptists, have been prosecuted for religious worship without state registration, Forum 18 News Service has learnt. Both were prosecuted under articles of the Administrative Code which violate international human rights commitments, and which the government is set to retain almost intact in a revision of the Code. An Internal Policy Department official defended the fine, telling Forum 18 that "they can meet and pray to God, but the Law says they have to register." In a case from another region, a member of New Life Church also convicted under one of the Administrative Code articles set to be retained, has lost her appeal against deportation and a fine, and has been deported to Uzbekistan. Her "offence" was giving a 12-year-old girl a Christian children's magazine. The deportation cuts her off from her four grown-up children.

Two brothers in the Akmola Region of Kazakhstan, both Baptists, have been prosecuted for taking part in religious worship without state registration, Forum 18 News Service has learnt. But while Viktor Leven has had a fine and deportation annulled on appeal, his older brother Didrikh Leven was given a massive fine on 28 October.

The articles of the Code of Administrative Offences under which both brothers were punished violate Kazakhstan's international human rights commitments. However, the government seems determined to retain them both almost intact in a proposed revised Administrative Code (see F18News 8 October 2009 http://www.forum18.org/Archive.php?article_id=1360).

Viktor Leven was found guilty of violating Article 375 Part 3 of the Administrative Code (carrying out missionary activity without local registration), which prescribes a fine and deportation for foreigners or people without citizenship found guilty under this Article.

Didrikh Leven was found guilty of violating Article 374-1 of the same Code (leadership or participation in the activity of an unregistered social or religious organisation).

The proposed revised Code of Administrative Offences reached Parliament from the government on 8 October (see F18News 8 October 2009 http://www.forum18.org/Archive.php?article_id=1360). However, an official of the General Department of the Majilis (lower house) of parliament told Forum 18 from the capital Astana on 5 November that the revised Code could not be registered and handed on for parliamentary scrutiny as "a lot of documentation – including a legal expertise from various organisations – was not included. "We don't have the right to register the proposed Law without such material."

The official said the text was sent back to the Chancellery of the Prime Minister's Office within days. "We've not had anything back from them yet."

Deportation and fine annulled

Viktor Leven, who lives in the town of Esil, was found guilty of conducting missionary activity (although Kazakh-born, he is a German citizen), on 14 October. He was fined 6,480 Tenge (238 Norwegian Kroner, 29 Euros or 43 US Dollars) and ordered to be deported (see F18News 26 October 2009 http://www.forum18.org/Archive.php?article_id=1367).

Leven lodged an appeal to Akmola Regional Court which, on 2 November, annulled the 14 October judgment. "The court recognised that he was not a missionary and had not been sent to Kazakhstan for this," local Council of Churches Baptists told Forum 18. "They recognise that he lives here." However, they are concerned that on 4 November Leven was again summoned to the local Prosecutor's Office.

Each time Forum 18 called Esil's Prosecutor's Office on 4 and 5 November, the woman who answered the phone said that Prosecutor Kairat Ramazanov had just stepped out of the office or had just left on a work trip. She confirmed that Leven had visited the office and spoken to an official, but insisted he had not been summoned and that they had had a "private conversation".

New fine

Viktor Leven's older brother Didrikh, a Kazakh citizen who lives in the village of Zaporozhe in the neighbouring Zhaksy District of Akmola Region, has long faced harassment for his involvement in his Council of Churches Baptist congregation. In November 2006 and again in January 2009 he was found guilty of violating Article 375 Part 1 of the Administrative Code, and given official warnings.

According to the 28 October court verdict, seen by Forum 18, the congregation was visited by the village Akim (administration chief) Aliya Musazhanova and the District Internal Policy Department official Gulnash Kuandykova during a service on 11 September. This was the latest in a regular series of visits by various officials.

The two officials testified in court that as Leven introduced and concluded the service, and spoke from the front of the meeting, that he is the leader. They also testified that the congregation is a religious community that must be registered in order to meet. Leven told the court that he is the "spiritual servant" of the congregation only, not its leader. He and other church members said the congregation does not need state registration.

Judge Saganay Amenov of the 2nd Court of Zhaksy District found him guilty of violating Article 374-1 of the Administrative Code and fined him 100 times the minimum monthly wage, or 129,600 Tenge (4,875 Norwegian Kroner, 575 Euros, or 860 US Dollars).

Didrikh Leven told Forum 18 on 4 November he would not pay the fine as he does not consider himself guilty of any crime. "We're not a juridical entity and have no intention of becoming one," he insisted. He said he will lodge an appeal to the same Akmola Regional Court which had overturned the punishment on his brother.

Leven noted that during their visit, village Akim Musakhanova had filmed the service and had written down the names of those present and who had led it.

Musakhanova refused to tell Forum 18 why she had filmed the service. However, she vigorously defended the prosecution of Leven. "This isn't persecution – they just need to register," she declared from the village on 5 November. "All faiths are fine if they register." Told that the congregation sees no need to register, and that Kazakhstan's Constitution and international human rights obligations do not restrict freedom of religion or belief to those with state registration, she responded: "But registration doesn't harm their rights."

Internal Policy Department official Kuandykova also defended the fine, which she said represents nearly five months' average local wages. "They can meet and pray to God, but the Law says they have to register," she told Forum 18 from Zhaksy on 5 November. "It's the Law and we can do nothing about it." She said she had written to Leven telling him that he had to register the congregation, "but he ignored it".

Kuandykova said it is her duty to visit all the religious communities in the district, whether mosques or churches. "I try to visit them several times a year. I don't write reports, but I need to know what they do."

Deportation to Uzbekistan carried out

Feruza Utegenova, a member of New Life Church in Aktau on the Caspian Sea, has lost her appeal against deportation and has been deported to Uzbekistan, Pastor Maksim Tashenov told Forum 18 from the town on 5 November. She had been convicted and fined in June for violating Article 375 Part 3 of the Code of Administrative Offences, which punishes "carrying out missionary activity without local registration" with a fine of up to fifteen times the minimum monthly wage. It also prescribes administrative deportation when such activity is carried out by foreign citizens.

This Administrative Code article is set to be retained intact in the revision of the Code, even though it breaks Kazakhstan's international human rights commitments (see F18News 8 October 2009 http://www.forum18.org/Archive.php?article_id=1360).

Utegenova's "offence" was giving a 12-year-old girl a Christian children's magazine. The child lived in a flat next to her home which Utegenova rented to the family. When the police Department for the Fight against Extremism, Separatism and Terrorism was interrogating Utegenova at a police station, the girl was brought in without any relatives being present. The 12-year-old girl was then herself subjected to interrogation by anti-terrorist police for two hours. The girl, who was already suffering from toothache, was so frightened that she began to choke, Utegenova said (see F18News 10 July 2009 http://www.forum18.org/Archive.php?article_id=1325).

Pastor Tashenov pointed out that the deportation from her home town of Aktau cuts her off from her four grown-up children, who still live in the town.

New Life Church cannot meet again for worship until 2 January 2010, as it was given a six-month ban at the same time as Utegenova was convicted (see F18News 10 July 2009 http://www.forum18.org/Archive.php?article_id=1325). Tashenov told Forum

18 that "our lawyer is still trying to work on this case in Astana, but the church is closed." Pastor Tashenov lamented that he "paid the fine, although I don't agree with it as we are law-abiding citizens."

Raids continue

Religious believers of various faiths elsewhere in Kazakhstan have faced continuing raids, fines and detentions throughout 2009 (see eg. F18News 29 September 2009 http://www.forum18.org/Archive.php?article_id=1355).

One Protestant punished after a 2008 raid has decided not to appeal against his sentence. Sarybai Tanabaev was found guilty by Court No. 2 in Taraz in Jambul Region in June 2009 of "inciting religious hatred" under Article 164, Part 2 of the Criminal Code, an accusation he rejected, and given a two-year suspended sentence (see F18News 12 December 2008 http://www.forum18.org/Archive.php?article_id=1229). Tanabaev told Forum 18 that, as he was not imprisoned and launching an appeal might make his situation worse, he has decided not to challenge the verdict. (END)

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

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

More 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>.

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://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=kazakh>.

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