

6 July 2012

KYRGYZSTAN: Prosecutor General preparing new banning suit

By Mushfig Bayram, Forum 18 (<https://www.forum18.org>)

Kyrgyzstan's Prosecutor General's Office is preparing a new lawsuit to have the country's Ahmadi Muslim community banned as "extremist", the legal expert of the State Commission for Religious Affairs (SCRA) told Forum 18 News Service. The attempt comes after the failure on technical grounds of their first attempt. Meanwhile, Jehovah's Witnesses have failed in the Supreme Court in their attempt to challenge the denial of registration to three of their branches. Lack of clarity over how religious communities gain re-registration after the 2009 Religion Law has left many unable to uphold their rights.

Zhanibek Botoyev, the Chief Legal Expert of the State Commission for Religious Affairs (SCRA), has revealed to Forum 18 News Service that plans are underway to try again in court to ban Kyrgyzstan's Ahmadi Muslim community as "extremist". The new attempt follows the failure on technical grounds in their first attempt. The court ruling came two weeks after the Supreme Court rejected Jehovah's Witness suit against the denial of registration to three of their branches.

The legal cases come amid a lack of clarity over how many religious communities have been able to gain re-registration and how those languishing without re-registration can do so. Lack of re-registration has prevented communities from exercising their full rights, including over establishing local communities or inviting foreign citizens for religious work.

Only 135 Muslim communities and three Russian Orthodox communities are believed to have gained re-registration since the new Religion Law was adopted. The Ahmadi community, which is among those denied re-registration, has not been able to meet for worship since July 2011 (see F18News 18 January 2012 http://www.forum18.org/Archive.php?article_id=1657).

The Bakiev-era new Religion Law came into force in January 2009. Among other provisions it requires each local religious community to have 200 adult citizen founders, which need to be approved by the local kenesh (council).

Prosecutor General's Office to again seek Ahmadi ban

Botoyev of the SCRA told Forum 18 on 4 July that the Prosecutor General's Office is preparing a fresh attempt to ban the Ahmadi Community as "extremist" through the courts, after the failure of its first suit on 15 June.

"We have consulted with the Prosecutor General's Office, and according to Civil Procedural Law we cannot re-register the Ahmadi Community until the lawsuit is over." Botoyev could not tell Forum 18 the exact provisions of the Civil Procedural Code allowing the SCRA to refuse the re-registration.

Botoyev said Ahmadis have worked for a decade in Kyrgyzstan with no problem, "but now they have become cheeky and think that they are the best". He said the Ahmadi community had complained to the President and higher authorities about the Muslim Board, "which oversees millions of Kyrgyzstan's Muslims". "We qualify this as inter-religious enmity," he insisted to Forum 18. "We have the opinions from various religious experts and Muftis that the Community is not even Muslim. They need to decide who they are, whether or not they are Muslim."

Deputy Prosecutor General Lyudmila Usmanova – who signed the initial suit to ban the Ahmadi community - refused to comment on the Court decision. Asked by Forum 18 on 4 July whether or not the Prosecutor General's Office will continue efforts to ban the Ahmadi Community, she responded: "We have not received the Court decision yet, and when we receive it we will make a decision what action to take next."

Aygul Matiyeva, the lawyer who defended the Ahmadi Community in the case, told Forum 18 on 4 July that "the Court established that the Prosecutor General's Office did not establish any facts of extremism in the activity of Ahmadi Muslim Community, and applied to the Court in violation of legal procedures." Asked whether she thinks the authorities will continue their suit to ban the Community, she said that the Community was "not re-registered by the State, so they may be accused of unregistered activity".

An Ahmadi Muslim who asked not to be named, told Forum 18 on 6 July that they are surprised to hear that the Prosecutor General's Office is preparing another suit, especially because they "hope that the authorities will have goodwill towards them".

Court dismisses first suit

Kyrgyzstan's Prosecutor General's Office went to court to have the country's Ahmadi Muslim Community qualified as an "extremist" organisation and to ban its activities. Court hearings began on 5 June (see F18News 15 June 2012 http://www.forum18.org/Archive.php?article_id=1712).

However, in her 15 June ruling, Judge Gulyayim Erkebayeva of Bishkek City's October District Court dismissed the suit. The decision entered into force on 26 June.

In her ruling, of which Forum 18 has seen a copy, Judge Erkebayeva explains that she was rejecting the suit because the Prosecutor General's Office had failed to issue or send a written warning to the Ahmadi Community before it brought a suit to court. The warning should have demanded that the Community eliminate specified facts of extremism within no less than 10 days. She pointed out that such a warning is required under Article 7 of the Law on Countering Extremist Activity.

The Judge noted that the plaintiff has the right to bring a new suit after eliminating the circumstances which caused the dismissal.

Three officers of Kyrgyzstan's National Security Committee (NSC) secret police - Kanat Tyukeyev, Zafar Ashuraliyev and Murat Ashimov - as well as Botoyev of the SCRA participated in the hearings to testify as third parties in the lawsuit.

On 5 June, while the case was beginning in court, the NSC secret police headquarters in Bishkek refused to put Forum 18 through to any of its three officers who participated in the hearing. It also refused to say why and what exactly those officials testified in court about the Ahmadi Community.

The duty officer who answered the phone, who refused to give his name, insisted to Forum 18 that he knows that the Ahmadi Muslims are "extremists, and perhaps extremist literature was confiscated from them." Asked what precise actions or literature of the Ahmadi Muslims are extremist, he referred Forum 18 to the NSC secret police's International Relations Department. However, the phone at that Department went unanswered each time Forum 18 called in early June and again in early July.

Supreme Court upholds re-registration denial

On 31 May, Kyrgyzstan's Supreme Court ruled in favour of the SCRA in a case brought against it by the Jehovah's Witnesses' Central Community in Bishkek. The Jehovah's Witness community brought the suit over the denial of registration to its affiliated communities in Jalal-Abad, Osh and Naryn Regions, Khamit Iskakov, the Jehovah's Witnesses' representative, told Forum 18 from Bishkek on 5 June.

As of 5 July the Jehovah's Witnesses had not received the Court decision. That day, Aziz Dosmambetov of the Court's International Relations Department once again assured Forum 18 the Jehovah's Witnesses will "very soon receive it, since it is ready". However, he refused to say how soon.

The Supreme Court had referred Forum 18 to Dosmambetov on 23 June. He had told Forum 18 then that the reason why Jehovah's Witnesses did not still receive a copy of the decision, was that "its text was not written down yet, that the Court was preparing it, and that they should receive it by the end of June." Asked why 23 days after the hearing the written text of the decision was not ready, Dosmambetov said that the Court has "few Judges, there is much work to do, and they are not able to manage all the work on time."

Told that the local Keneshes, in violation of the Law, refuse to endorse the lists of the founders of the local Jehovah's Witnesses communities, and asking what other legal actions must be taken to re-register these communities, Dosmambetov declined to comment saying that he is "not familiar with the details of the case". Asked who from the Supreme Court could comment on this question, he said he could not refer Forum 18 to any official. "Most of the Judges are on vacation, and there will soon be election of Judges to the Court."

Local keneshes withhold permission

The refusal by local Keneshes to endorse religious communities' lists of founders has affected communities of a variety of faiths. Such refusals have prevented some from getting state registration and thus also from being allowed to gain missionary visas for foreigners.

Between September and December 2010, Ardak Kokotayev (Chair of Naryn city Kenesh), Bakytbek Adylov (then Chair of Jalal-Abad city Kenesh), and Davletbek Alimbekov (Chair of Osh city Kenesh) all refused in letters – which Forum 18 has seen – to endorse the Jehovah's Witnesses' founders' lists. All three stated that although the Religion Law requires local keneshes to endorse such lists, the national authorities have not provided mechanisms or a procedure how to do this.

Back in January one of the local Keneshes Chair revealed to Forum 18 that even if the said mechanisms were ready, the local

deputies still did not want to assist the Jehovah's Witnesses with registration. Kokotayev of Naryn Kenesh told Forum 18 that the Kenesh is a collective body of deputies, and they make joint decisions. "The deputies do not like the Jehovah's Witnesses, and made a decision to refuse to endorse their list" (see F18News 18 January 2012 http://www.forum18.org/Archive.php?article_id=1657).

Botoyev of the SCRA appeared unsure as to who was to blame for the Jehovah's Witnesses' lack of registration. "It is the fault of the local keneshes that the Jehovah's Witnesses were not registered in those regions," he maintained. He then added: "Jehovah's Witnesses need to fulfil the law, and have their lists of founders endorsed by local Keneshes in those regions."

On 10 July a court case is due to begin at Bishkek Interdistrict Court in a suit brought by Bishkek's Grace Presbyterian Church, Botoyev and Chynasy Chynybayev, Head of the Legal Department of Bishkek City Kenesh, separately told Forum 18. The Church is bringing the suit because it is unable to get missionary visas for those it wishes to invite, since Bishkek City Kenesh has not confirmed their list of founders.

Aleksandr Shumilin, Head of Kyrgyzstan's Alliance of Evangelical Churches, told Forum 18 on 6 July that not long after the new Religion Law entered into force, the Alliance - which has roughly 300 Protestant member Churches - decided not to ask the State organs for official registration in protest at the threshold of 200 founders and other restrictions in the Law. "Most communities cannot possibly register and function under the conditions stipulated by the Law," he lamented.

Do regulations for Keneshes exist?

Botoyev, the Chief Legal Expert of the SCRA, insisted to Forum 18 that regulations governing how local Keneshes approve founders' lists were approved in 2011. He said he will prove in court to Bishkek City Kenesh in the Grace Church case that such regulations exist. He could not say where Forum 18 could see their electronic version.

He said that in 2011, in co-operation with the Organisation for Security and Co-operation in Europe (OSCE), the SCRA prepared the regulations and published them in the form of booklets.

Botoyev said they were sent in June 2011 to the Union of local Keneshes of Kyrgyzstan, the Central Organ that coordinates the activity of all local Keneshes. "In its turn the Central Organ sent us an official reply in July 2011 that they had already forwarded the regulations to the local keneshes," he told Forum 18.

However, Jalalbek Boltagulov, Director of the Union of Local Keneshes of Kyrgyzstan, disputes this. He told Forum 18 on 6 July that he had looked back at correspondence for that period, and there was no communication between the SCRA and the Union in June-July 2011. "The SCRA as a state organ cannot give such orders to us to send or inform of the existence of such regulations to the local Keneshes since we and the local Keneshes are non-government and non-commercial organisations."

Shumilin of the Alliance of Evangelical Churches said that he does not believe that regulations for the local Keneshes exist. He said that at a regular meeting of the Alliance in early July, several Churches complained that they cannot obtain or extend visas for their missionaries because the Keneshes in Bishkek and in the regions have told them that they cannot endorse their lists of the founders necessary for obtaining the visas.

Chynybayev of the Legal Department of Bishkek City Kenesh told Forum 18 on 6 July that "no regulations exist until this day, and there are no mechanisms for how the local Keneshes can endorse lists of founders." He said that it is not clear whether the Chair of the Kenesh should do it, or the deputies should endorse by voting, and whether it should be written or oral. He said that if such regulations exist, that will become clear in court proceedings in the suit brought by Grace Presbyterian Church.

Chynybayev said that since the Law entered into force, Bishkek City Kenesh has not endorsed lists of founders of any religious organisations, whether Muslim, Christian or of any other faith.

How many religious communities are registered?

Given the lack of clarity over whether or not the SCRA has provided regulations to the Union of Local Keneshes and, if so, whether it has distributed them to local Keneshes, it remains unclear how many religious communities currently have state registration which allows them to conduct the full range of religious activities, including registering local branches and inviting foreign citizens for religious work.

Yekaterina Ozmitel, Head of the Centre of Religious Research, told a press conference in Bishkek on 26 June that 2,330 religious organisations have registration. However, she complained of the lack of clarity in the Religion Law.

Ozmitel clarified to Forum 18 on 6 July that the 2,330 religious organisations she spoke about had registration before the new Religion Law. She said they are still regarded as registered, even though they need to be re-registered.

Asked how many religious communities are currently registered, and how many have been registered or re-registered since the new

Religion Law came into force, Botoyev refused to say. He referred Forum 18 to Baktybek Osmanov, the official who oversees statistics at the SCRA.

Osmanov also refused to give the figures of registered religious organisations. "We do not provide such statistics over the phone," he told Forum 18 on 5 July. But he insisted that the SCRA registers organisations according to the Law. Asked whether it has registered or re-registered any Muslim communities outside the framework of the Muslim Board or any non-Muslim communities, Osmanov did not answer, and put the phone down. (END)

For background information see Forum 18's Kyrgyzstan religious freedom surveys at <http://www.forum18.org/Analyses.php?region=30>.

More reports on freedom of thought, conscience and belief in Kyrgyzstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=30>.

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 Kyrgyzstan is available at <http://education.nationalgeographic.com/education/mapping/outline-map/?map=Kyrgyzstan>.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY