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KAZAKHSTAN: Do foreigners have religious freedom?

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

Courts ordered two further fines and deportations in late 2013 of foreign citizens legally resident in Kazakhstan simply for exercising the right to freedom of religion or belief, Forum 18 News Service notes. Polish cardiologist Robert Panczykowski had preached at a Jehovah's Witness meeting, while Kyrgyz citizen Shamurat Toktoraliyev had discussed his faith in a private flat. A further case is pending. Anti-"Extremism" officer Smayil Konyrbai who raided the meeting singled out Panczykowski because he spoke "with an accent", the court decision notes. "It's not racism, it's my job," Konyrbai insisted to Forum 18. Moscow Imam Shamil Alyautdinov has been blocked from presenting his books in Kazakhstan because the only legally registered Islamic organisation – the Muslim Board – refuses to invite him. Without personal registration as a "missionary", any public appearance would be illegal.

A further two foreign citizens legally resident in Kazakhstan – one Polish and the other Kyrgyz - were ordered deported by the courts in late 2013 for exercising their right to freedom of religion or belief, Forum 18 News Service has learned. One had preached at a Jehovah's Witness meeting, the other had discussed his faith with two interested young people in a private flat. Court hearings that might lead to the deportation of another, a Russian citizen, are likely to begin in Kazakhstan's commercial capital Almaty on 4 February.

Two other religious leaders are known to have been deported in 2013 despite having valid residency. Baptist pastor Viktor Lim was fined and ordered deported for leading a registered religious community and left Kazakhstan in August 2013. Lim, a stateless person, had lived in the country for 20 years and his wife and children are Kazakh citizens. The authorities classed his action as "illegal missionary activity". In addition, Protestant Pastor Vyacheslav Li (whose wife and two young children are Kazakh citizens) was deported in July 2013 after committing eight administrative offences in the eight years he lived legally in Kazakhstan (see F18News 4 October 2013 http://www.forum18.org/archive.php?article_id=1883).

And amid further tight restrictions on what foreign citizens are allowed to do, Moscow-based imam Shamil Alyautdinov has been barred from openly presenting his books on Islam in bookshops in Kazakhstan for the past year because the only registered Muslim religious organisation in the country (the Muslim Board or Muftiate) has refused to invite him. Without such an invitation, Religious Affairs Departments in local administrations will not grant him personal accreditation as a "missionary" which they insist is required for him to conduct any activity relating to religion (see below).

Kazakhstan's international human rights obligations make no distinction between the human rights of citizens and non-citizens, as everyone - even stateless persons - has human rights. Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which Kazakhstan ratified in 2006, firmly states that "everyone shall have the right to freedom of thought, conscience and religion".

Population "satisfied" with restrictions?

Saktagan Sadvokasov, spokesperson for the government's Agency of Religious Affairs in the capital Astana, declined to answer directly Forum 18's question as to whether foreign citizens legally resident in Kazakhstan enjoy the same rights to freedom of religion or belief as local citizens. But he vigorously defended the restrictions on foreigners' religious activity enshrined in the 2011 Religion Law.

"The Law embodies the views of the people of Kazakhstan," Sadvokasov claimed to Forum 18 on 21 January. "The Law was passed by parliament and parliament expresses the will of the people. The head of state signed the Law. The population is fully satisfied with it, and welcomes and respects it."

The 2011 Religion Law and another law adopted at the same time attracted strong criticism from some parliamentary deputies, as well as civil society organisations, human rights defenders, many religious communities in Kazakhstan, and the Organisation for Security and Co-operation in Europe (OSCE) (see F18News 13 October 2011 http://www.forum18.org/archive.php?article_id=1624).

Asked about why foreign citizens legally resident in Kazakhstan are targeted for deportation for exercising their right to freedom of religion or belief in a non-professional capacity, Sadvokasov responded: "It is your opinion that this is a restriction of their rights."

He insisted that any action against such individuals is not by his Agency but by "law-enforcement" agencies and in line with the Religion Law.

Forum 18 read Sadvokasov part of the court decision in the case of Polish citizen Robert Panczykowski where a Police Anti-Extremism officer targeted him simply because he was addressing a meeting within a religious community "with an accent". Sadvokasov dismissed suggestions that this amounted to racism. Stressing that he was not familiar with the case, he insisted that there is "no racism" in Kazakhstan and that "no discrimination on the basis of language or race" occurs.

Sadvokasov claimed also to be unaware of the obstacles preventing Moscow imam Alyautdinov taking up invitations to present his books on Islam in Kazakhstan for the past year. Those inviting him "can apply to the state organs", Sadvokasov insisted. Asked why an individual needs an invitation from a registered religious organisation to present their books on religion in a local bookshop and hold seminars on their faith, he repeated that the Religion Law requires it.

Ombudsperson's Office "can't say" what help it offered

Equally unwilling to defend the rights to freedom of religion or belief of foreign citizens legally resident in Kazakhstan was Alibek Sabdinov, a chief expert at the office of the Ombudsperson for Human Rights in Astana. (The office of Kazakhstan's Ombudsperson for Human Rights is not fully compliant with the Paris Principles on the independence of such national human rights bodies from government, according to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.)

Sabdinov said that the Ombudsperson's Office receives appeals from foreigners over restrictions to their right to freedom of religion or belief. However, he declined to say how many have been received or who from. "I can't say what help our Office has offered," he told Forum 18 on 21 January, "but we work closely with state agencies, including the Agency of Religious Affairs, and explain to individuals the provisions of the Religion Law. Any foreigner must know the law."

Sabdinov claimed that the 2011 Religion Law "meets international norms", including the restrictions on foreign citizens' rights to religious freedom when in Kazakhstan. He claimed that European countries impose the same requirements. Asked to name any, he specified France. He pointed out that in Kazakhstan both foreign and local citizens require registration as "missionaries" if they try to spread their faith.

Anti-"extremism" raid because "people had gathered"

Trouble began for Polish citizen Panczykowski and his Jehovah's Witness community in Aktobe on 24 August 2013, according to the court decision seen by Forum 18. An officer of Aktobe Region's Police Department for the Struggle With Extremism Smayil Konyrbai told the subsequent hearing on Panczykowski's case that he had received calls (he did not say who from) that "people had gathered" at the city's Jehovah's Witness place of worship.

Konyrbai and two colleagues then arrived at the meeting, where more than 500 Jehovah's Witnesses had gathered. He said community members had refused to allow officers to film, record or take photographs. The Anti-"Extremism" officers listened to Panczykowski's talk. "In connection with the fact that the given individual spoke with an accent, they approached him after the end of the service and asked for his documents, which he provided," the court decision notes in its account of Konyrbai's testimony.

The court record does not explain why officer Konyrbai and his colleagues visited a religious meeting in a registered place of worship of a registered religious community simply because "people had gathered" there.

Panczykowski was accused of acting as a missionary without personal registration as a missionary under Code of Administrative Offences Article 375, Part 3 ("The carrying out of missionary activity by citizens of the Republic of Kazakhstan, foreigners and persons without citizenship without registration (re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment of a religious studies expert analysis"). In addition to the fine, the Article specifically mandates deportation for foreigners.

"It's not racism, it's my job"

Anti-"Extremism" officer Konyrbai refused to explain why he and his colleagues had raided a religious meeting simply because "people had gathered". He refused to explain why this was an issue for his Department. He rejected suggestions that singling out Panczykowski because of his accent might represent racism. "It's not racism, it's my job," he insisted to Forum 18 from Aktobe on 21 January.

Konyrbai refused to answer any other questions. "I'm a state official and can answer no questions by phone," he told Forum 18 and put the phone down.

Fine and deportation

At a hearing on 18 November 2013 at Aktobe Specialised Administrative Court, Panczykowski insisted that he was not a missionary and had not been appointed a missionary by any Jehovah's Witness body. He insisted he was merely telling those present of his personal beliefs.

However, Judge Saule Spandiyarova rejected his defence. She fined him the maximum 100 Monthly Financial Indicators (MFIs), 173,100 Tenge (6,800 Norwegian Kroner, 800 Euros or 1,100 US Dollars). This represents about two months' average wages. She also ordered his deportation, according to the court decision seen by Forum 18.

The court decision notes that Panczykowski was working as coordinator for Karaganda's Cardiological and Cardio-Surgical Service, had a valid residence permit issued in November 2009 and had a Kazakh personal identity number. Officials at Karaganda Regional Cardio-Surgical Centre gave varying accounts of his involvement. One told Forum 18 on 21 January that they knew Panczykowski well. However, the Centre's personnel department insisted to Forum 18 that he "never worked here" and was a representative working with other Polish doctors in the city.

On 13 December 2013, Aktobe Regional Court rejected Panczykowski's appeal, according to the decision seen by Forum 18.

Jehovah's Witnesses told Forum 18 that Panczykowski "is a businessman who for the past 10 years has been organising training for Kazakhstan's cardiologists by eminent experts from Poland". More than 800 of Kazakhstan's doctors have received this specialised training, including doctors in the Nazarbayev Cardiac Centre in Astana, they added.

Panczykowski has not yet paid the fine and has not yet left Kazakhstan as he is appealing to the General Prosecutor's Office, Jehovah's Witnesses told Forum 18.

Deported for private discussion

In a similar case in Astana, Jehovah's Witness Shamurat Toktoraliyev – a Kyrgyz citizen - was fined 100 MFIs under the same Administrative Code Article 375, Part 3. In her 18 November 2013 decision, seen by Forum 18, Judge Kazima Aitkaliyeva of Astana's Specialised Inter-District Administrative Court also ordered Toktoraliyev's deportation.

The administrative case had been launched after a named local woman had called the police to say Toktoraliyev and another Jehovah's Witness Talgat Belbayev were visiting two young men – one of whom was her nephew - in their home at their invitation on 25 September 2013. The two men had already attended Jehovah's Witness meetings.

Why the woman had called the police about two people accepting an invitation to talk in a private home to two of her fellow residents was not explained in the court decision and the woman does not appear to have been questioned during the hearing. A video "of poor quality" showing Toktoraliyev and Belbayev's detention was added to the case materials, though the court decision does not explain who had filmed the detentions.

Bizarrely, the court decision claimed that by talking to the two young men about the Jehovah's Witness faith, Toktoraliyev and Belbayev had "violated their right to freedom of conscience guaranteed in Kazakhstan's Constitution and the international Covenant".

The same judge at the same court on the same day also found Belbayev guilty under the same Article 375, Part 3, according to the court decision seen by Forum 18. He was similarly fined 100 MFIs. However, as a Kazakh citizen Belbayev could not be deported.

Toktoraliyev's appeal was rejected on 12 December 2013 by Astana City Court, according to the decision seen by Forum 18. Belbayev's appeal had been rejected by the same court the day before.

Toktoraliyev had lived for many years in Kazakhstan, Jehovah's Witnesses told Forum 18. His wife (also a Kyrgyz citizen) and two of their three children left Kazakhstan after the lower court decision "to avoid extra stress on the family if there were to be a hurried deportation". Toktoraliyev himself left Kazakhstan following the rejection of his appeal, but without paying the fine, Jehovah's Witnesses told Forum 18.

Another to be deported?

Prosecutors have also gone to court to punish another Jehovah's Witness Yuri Toporov, who was based at the Jehovah's Witness national headquarters in Almaty. Toporov is a Russian citizen who has lived in Kazakhstan for more than ten years, Jehovah's Witnesses told Forum 18. His wife is a Kazakh citizen.

Toporov was accused of violating Administrative Code Article 375, Part 3. His case is due to be heard under Judge Akmaral Isabayeva at Almaty's Specialised Inter-District Administrative Court, but has been repeatedly postponed, most recently on 22 January. The case is now expected to be heard on 4 February.

Banned from presenting book on Koran

Imam Alyautdinov of Moscow's Memorial Mosque and a prolific author on Islamic themes has been barred from visiting Kazakhstan to present his new books and hold seminars since early 2013. A scheduled presentation of his book "The Holy Koran. Meanings" in an Astana bookshop on 17 February 2013 had to be abruptly cancelled two days before it was due to take place, Muslims familiar with the situation told Forum 18. Organisers had to offer refunds to those who had bought tickets.

Although as a Russian citizen Imam Alyautdinov does not need a visa to visit Kazakhstan, Agency of Religious Affairs officials in Astana made clear that any public appearances to promote his books without personal registration as a "missionary" would be illegal.

On 22 February 2013, his Kazakh colleagues then approached the Muslim Board (Muftiate), the only Islamic organisation the government has allowed to get registration since the harsh 2011 Religion Law. They asked that it formally request his registration as a missionary.

Despite several personal visits, his colleagues could get no reply. Finally, in a short written reply of 23 May 2013, seen by Forum 18, the Muslim Board's head of administration Gylymbek Mazhiyev responded that the Board "does not consider it necessary in the current year to invite Imam of the Moscow mosque Alyautdinov to Kazakhstan".

Alyautdinov's colleagues expressed frustration over the stalemate, pointing out that the government's Agency of Religious Affairs – which conducts the compulsory state censorship of all religious literature sold or imported into Kazakhstan – has approved many of the Imam's books.

An approval letter of 28 May 2013 from the ARA's then branch in Astana – seen by Forum 18 – includes "The Holy Koran. Meanings" among three books by the Imam and his brother that had successfully undergone ARA censorship.

Imam Alyautdinov visited Almaty in October 2013 to sign copies of his books, but was unable to hold any public events. His colleagues in Kazakhstan have had to organise a seminar with the Imam in late May 2014 in Antalya in Turkey, because of the stalemate over getting permission. "We would of course like to hold these seminars in Kazakhstan," one of his colleagues told Forum 18 from Almaty on 8 January.

In 2011, the ARA banned an earlier proposed visit by Imam Alyautdinov to present his new books in higher education institutions and bookshops. The ARA later claimed to have overturned the ban, but insisted his books would need to undergo the compulsory censorship (see F18News 21 October 2011 http://www.forum18.org/Archive.php?article_id=1628).

Foreign religious workers

Several of Kazakhstan's religious communities rely on foreign citizens to provide religious personnel, particularly the Russian Orthodox, Catholic and Jewish communities. Of Kazakhstan's ten Russian Orthodox bishops, all but two or three are foreign citizens, an Orthodox Christian told Forum 18 from Almaty. Some priests are also foreign citizens, mostly from Russia or Moldova.

"Getting registration as foreign missionaries for them has not been too difficult," the Orthodox noted. "Although it is not a problem at present, it could become one in future."

The Orthodox added that when Russian Orthodox Patriarch Kirill visits Kazakhstan (as he did in May 2012), he does not need personal registration as a "missionary" to participate in public events because he is invited by the Church and by Kazakhstan's President Nursultan Nazarbayev. (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=1352.

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY