

17 April 2015

KAZAKHSTAN: Baptist facing three years jail for breaking state censorship?

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

A Baptist in Kazakhstan, Nikolai Novikov, could face up to three years in jail for refusing to pay a 2013 fine for offering religious literature which has not been censored by the state on the streets, Forum 18 News Service has learned. He has refused to pay that and other fines, as he states they are unjust. Prosecutor Aydin Rashidov insistently claimed that as Novikov's "crime" was of what he described as "middling seriousness", if convicted Novikov would not be imprisoned. However, Rashidov stated that he would have to live under restrictions – such as being subject to a curfew every night at his house - for up to three years. Novikov has pointed out that the prosecution is illegal under Kazakhstan's law. Meanwhile, administrative prosecutions to punish individuals for commercially distributing Muslim religious materials without state approval continue. And, apparently for the first time, the General Prosecutor's Office has published a list of religious and other texts deemed "extremist" and whose production, import or distribution is banned.

A Baptist in Kazakhstan, Nikolai Novikov, could face up to three years' imprisonment for refusing to pay a 2013 fine for offering uncensored religious literature on the streets, Forum 18 News Service has learned. He has refused to pay that and other fines he was given, as he states they are unjust. "We are looking at whether a crime was committed," Prosecutor Aydin Rashidov told Forum 18 from Oral (Uralsk) in West Kazakhstan Region on 16 April. "The court bailiff has prepared the materials, but it is too early to say if Novikov is guilty or not."

Prosecutor Rashidov insistently claimed that as Novikov's "crime" was only of what he described as "middling seriousness", if convicted Novikov would not be imprisoned. However, Rashidov stated that he would have to live under restrictions – such as being subject to a curfew every night at his house - for up to three years.

Novikov is due to meet police Investigator Captain Aydin Ispolov on 20 April to hear what the next moves in the case will be. "He wants me imprisoned, for one, two or three years," Novikov told Forum 18 from Oral on 17 April. Forum 18 was unable to reach Investigator Ispolov.

Council of Churches Baptists have a policy of civil disobedience, refusing to pay the many administrative fines imposed on them. These are for such "offences" as meeting for worship without state permission, or sharing religious literature which has not been censored by the state (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

The 34-year-old Novikov – who is married with four young children - has been fined three times in two years, jailed for five days, placed on Kazakhstan's exit ban list, and has had a restraining order placed on his car and his garage (with a threat of its confiscation). "I didn't pay because I don't consider myself guilty," he explained to Forum 18 in January. "These fines were illegal" (see F18News 12 January 2015 http://www.forum18.org/archive.php?article_id=2026).

State censorship

Kazakhstan imposes strict state censorship on all religious materials, including highly restrictive controls on who may sell distribute material and where it may be sold or distributed (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

Many individuals have been punished under the Code of Administrative Offences for selling religious books or other items – or offering them to others – without the required licence from the Regional Religious Affairs Department. Such fines have been imposed in Oral and Ekibastuz in recent months (see below).

In addition to restrictions on what religious literature can be sold or given away and where, some religious books and materials have been banned by the courts as "extremist". The recently-published list of banned "extremist" works includes one work by an early Wahhabi Muslim and two Christian books (see below).

"Illegal distribution on the street"

Novikov was detained on 1 March 2013 as he "illegally distributed on the street booklets and literature of religious content belonging to the Baptists" in the village of Budarino in Akzhaik District, 90 kms (55 miles) south of Oral. The books were confiscated and sent for a "psychological/philological expert analysis", which was completed about 10 days later. Such "expert analyses" are a routine part of the state's mechanism of repression (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

On 5 May 2013 an administrative case was prepared against Novikov under the then Administrative Code's Article 375, Part 1 ("Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship"). This Article has now been replaced by an identical Article 490, Part 1 of the new Administrative Code (see F18News 21 July 2014 http://www.forum18.org/Archive.php?article_id=1979).

On 20 May 2013 Novikov was found guilty and fined 50 Monthly Financial Indicators (MFIs), according to the decision seen by Forum 18. This was his second fine by the same court in less than two months (see F18News 11 November 2013 http://www.forum18.org/archive.php?article_id=1895).

After Novikov refused to pay, insisting he should not be punished for exercising his right to freedom of religion or belief, bailiffs began moves to recover the money on 15 July 2013. In September 2013 he was placed on an exit ban list banning him from leaving the country. On 18 August 2014, Oral Specialised Administrative Court found him guilty of violating Administrative Code Article 524 ("Failure to carry out court decisions") by refusing to pay the May 2013 fine. Novikov was sentenced to five days' imprisonment to start from that afternoon (see F18News 8 October 2014 http://www.forum18.org/archive.php?article_id=2004).

On 16 March 2015, bailiff Yerkebulan Andakulov sent a request to Oral Police Chief Manarbek Gabdullin calling for Novikov to face criminal prosecution. On 4 April, the Police prepared documentation to bring him to court under Criminal Code Article 430, Part 1, Baptists told Forum 18. This punishes failure to fulfil a court decision over a period of more than six months with imprisonment or restricted rights for up to three years.

Is criminal prosecution legal?

Novikov points out that Article 890, Part 1 of the new Administrative Code specifies that, apart from in tax and anti-monopoly cases, "a decision on imposing an administrative punishment is not subject to enforcement if it has not been enforced within one year from the day of its entry into legal force". Such violations of the law by the authorities have not prevented prosecutions being brought and punishments being imposed (see eg. F18News 23 February 2015 http://www.forum18.org/archive.php?article_id=2043).

Novikov told Forum 18 that he had written a complaint to the Prosecutor's Office several days earlier, complaining that Bailiff Andakulov had been acting illegally by initiating a prosecution as the "offence" had taken place nearly two years earlier.

Bailiff Andakulov refused absolutely to discuss why he is seeking to have Novikov imprisoned to punish him for refusing to pay a fine he regards as unjust. "Send your questions in writing," he told Forum 18 on 15 April. Forum 18 has received no reply to its written question sent the same day.

Commercial vendors of religious materials fined

Meanwhile, administrative prosecutions to punish individuals for commercially distributing religious materials without state approval have continued.

On 3 April, Judge Aynur Kadyrova of Oral Specialised Administrative Court in West Kazakhstan Region found Eldar Sundetkaliyev guilty under Administrative Code Article 490, Part 1, Point 3 ("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"). She fined him 50 MFIs, 99,100 Tenge (about 4,130 Norwegian Kroner, 490 Euros, or 530 US Dollars), according to the verdict seen by Forum 18. This is about one month's average wages.

The maximum punishment for individuals under this Article is the 50 MFIs imposed on Sundetkaliyev (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

The 24-year-old Sundetkaliyev was punished for offering for sale on 11 February, via the slando.kz website, tablet computers for children loaded with a programme teaching them how to pray the namaz (Muslim prayer). A 17 March "expert analysis" by N. Mirzakhmetov of the government-backed Scientific Research Centre on Questions of Religion found that the programme taught a "non-traditional" (Salafi) way of praying and could therefore sow divisions in the community. The confiscated tablet computer was

ordered to be kept in the case file.

Ekibastuz in the northern Pavlodar Region has been a focal point of such prosecutions, with four known cases in the past six months. In separate cases on 16 February, Judge Aygul Kaidarova of the city's Specialised Administrative Court found Yekaterina Kriger and Rosa Amankulova guilty under Administrative Code Article 490, Part 1 of selling religious items without approval. Each was fined 50 MFIs (about one month's average wages), 99,100 Tenge, and banned from conducting commercial activity for three months, according to the verdicts seen by Forum 18.

Judge Murat Ermekov of Pavlodar Regional Court rejected Amankulova's appeal on 11 March, according to the decision seen by Forum 18. Kriger does not appear to have appealed against her punishment.

A single mother with two young children, Kriger ran a stall at the Bolashak shopping centre in Ekibastuz which was visited by police on 19 November 2014. They found her selling three amulets and 26 chains with pendants, all bearing Arabic inscriptions. A "religious expert analysis" the following month declared that the texts were religious and the Prosecutor's Office then sent the case to court as Kriger's stall was not authorised to sell religious items. The Judge ordered that the 29 items confiscated by the police should be destroyed, the verdict notes.

Amankulova's stall at the market was raided on 21 November 2014, where officers found 23 amulets and other items. A "religious studies expert analysis" similarly deemed them to be religious.

Daniyar Iskakov, the Prosecutor's Office official who handled the prosecutions, refused to discuss why individuals should be punished for selling religious items without state permission. "I can't give any explanation without approval from higher up," he told Forum 18 from Ekibastuz on 16 April.

On 13 November 2014, Judge Nurolla Esenzholov of the same court had fined two commercial vendors in separate cases under the old Administrative Code Article 375, Part 1, according to court records. Sardar Alekperov and Valentina Selivanova were each fined 100 MFIs (about two months' average wages) for selling religious materials in unapproved locations. Neither appealed against their fines.

"Sardar was simply selling Muslim items for people to put on cars," a local resident who knows Alekperov told Forum 18 from Ekibastuz on 15 April 2015. "Lots of people sell such items here, but only he was fined." The resident said Alekperov reluctantly paid the fine. "The case is now closed."

Banned texts list published

In December 2014, apparently for the first time, the General Prosecutor's Office published on its website a list of religious and other texts deemed "extremist" by various courts and whose production, import or distribution is banned. The most recent update to the list, from 14 January 2015, contains 661 items.

A growing number of religious publications and web pages by Muslim, Protestant and Jehovah's Witness authors have been banned by courts as "extremist", Forum 18 notes. Such court decisions have often not been publicised and have therefore been impossible to challenge (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005). It remains unclear whether challenging such decisions is now possible – or indeed if the list includes all works which have been banned as "extremist".

Among the items the General Prosecutor's Office lists as banned – not all of which relate to religions or beliefs - is a Russian translation of the work "Explanation of the Three Fundamental Principles of Islam". This is at least partly written by Salafi Muslim Mohammed ibn Abdul-Wahhab, who helped found a precursor to the present-day kingdom of Saudi Arabia. This was banned by an Astana court in February 2014 after 54 copies were confiscated by Customs (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005).

Also on the General Prosecutor's Office's list is the Russian translation of "Healing the Broken Family of Abraham" by American Protestant Don McCurry. This was banned by an Almaty court in November 2012. It found that the book contains "elements of incitement to religious hatred and discord". The ruling formed the partial basis of the attempt to prosecute Astana-based retired Presbyterian pastor Bakhytzhn Kashkumbayev on criminal charges of "extremism" (see F18News 9 October 2013 http://www.forum18.org/archive.php?article_id=1885).

Another Christian book on the list used to bring court cases is "Jesus: More than a Prophet". The book – a Russian translation of an English-language collection of essays by 15 Muslims who became Christians – was edited by Richard Wootton. At the request of Burabai Prosecutor's Office in Akmola Region, it was banned by Judge Bayan Adilbekova of Burabai District Court on 20 November 2014, according to the decision seen by Forum 18. She banned the import, production and import of the work, as well as any electronic or internet distribution of it.

The decision to ban the book came after copies were confiscated from two Council of Churches Baptists, Vyacheslav Cherkasov and

Zhasulan Alzhanov, in May 2014 as they were offering Christian literature on the street near the market in Shchuchinsk in Akmola Region.

On 13 June 2014, Berik Manakhayev of the Justice Ministry's Central Institute for Judicial Expertise produced a 14-page "expert" analysis of the 44 different confiscated books, declaring that only one was illegal. He alleged that "Jesus: More than a Prophet" contains "elements inciting religious hatred and discord", according to the analysis seen by Forum 18. Manakhayev took 46 hours to complete the analysis of the 44 texts and the Central Institute charged the Burabai Police 26,394.02 Tenge for this work.

Manakhayev's colleagues at the Central Institute for Judicial Expertise told Forum 18 on 17 April 2015 that he was on leave until after 4 May.

On 24 September 2014, Burabai's Prosecutor Askhat Dzhakipbekov sent his suit to court. The court drew entirely on Manakhayev's findings when it banned the book.

In October 2014, Cherkasov and Alzhanov had each been fined 200 MFIs (about four months' average wages) and sentenced each to 10 days' imprisonment (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005).

This means that their punishment for distributing the book came more than a month before a court had ruled it "extremist" and banned its distribution. (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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