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KAZAKHSTAN: Wave of prosecutions against "extremist" Muslims

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

In September alone in three different cities of Kazakhstan, at least four alleged members of the Tabligh Jamaat Muslim missionary movement were convicted and five more imprisoned as prisoners of conscience in pre-trial detention for two months, Forum 18 News Service has learned. In Temirtau, Orazbek Apakashev received a term of three years' imprisonment. A court in the capital Astana imprisoned five alleged members for two months' pre-trial detention at the KNB secret police's request. Forum 18 tried to reach the head of Astana KNB, Kurman Yelyubayev, or any of his deputies. "We're such an organisation that we can't answer your questions," Yelyubayev's assistant said to explain her refusal to transfer the call. Davlet Tlemisov, who led the prosecution in court in Shymkent of three alleged Tabligh Jamaat members, defended the sentences of one year's restricted freedom each. "These are dangerous people," he told Forum 18. He then admitted that they had not set off bombs, nor murdered anyone, nor incited anyone to commit crimes. "They hold meetings and discussions directed at violating the constitutional system," he claimed, but refused to explain.

Kazakhstan's security agencies – the Prosecutor's Office, the Police and the National Security Committee (KNB) secret police – have launched a wave of criminal prosecutions against Muslims who are alleged members of the Tabligh Jamaat missionary movement, Forum 18 News Service has learned. In September alone in three different cities, at least four prisoners of conscience were convicted and five more imprisoned in pre-trial detention. They join seven already known to be serving prison terms after earlier trials.

After more than seven months' pre-trial imprisonment, a court in northern Karaganda Region sentenced Orazbek Apakashev to three years' imprisonment. In Shymkent, three men were convicted and given sentences of restricted freedom. The sentences came as a Muslim from Almaty, whose appeal against his four year and eight month prison term was rejected, was transferred to labour camp in Pavlodar.

And five other Muslims allegedly close to the Tabligh Jamaat movement were imprisoned for two months in the capital Astana and await possible trial on criminal charges which carry a maximum six-year prison sentence.

Trials follow 2013 ban

In February 2013, without prior public announcement, Astana's Saryarka District Court granted Astana City Prosecutor's Office suit to have Tabligh Jamaat banned throughout Kazakhstan as "extremist". The prosecutor claimed – without making any evidence public – that the group's "real aim" was the seizure of territory and creation on it of a caliphate, "including in Kazakhstan", which "presumes a violent change to the constitutional order". The ban was backed in court by the KNB secret police and the Interior Ministry (see F18News 12 December 2014 http://www.forum18.org/archive.php?article_id=2023).

Since the ban, a growing number of Muslims are facing imprisonment if officials believe they are close to Tabligh Jamaat. However, trials of people alleged to be members have been surrounded in secrecy and it is possible others have been sentenced without this becoming known.

All the new cases are under Criminal Code Article 405. This punishes "Organising or participating 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". Part 1 punishes organising such activity, with a fine or up to six years' imprisonment. Part 2 punishes participating in such activity, with a fine or up to two years' imprisonment.

Earlier known imprisonments

Among known such criminal prosecutions resulting in prisoners of conscience, on 2 December 2014 one Muslim - Mamurzhan Turashov - was sentenced to three years' imprisonment in Sairam in South Kazakhstan Region. The Regional Court rejected his appeal on 30 April 2015.

On 14 January 2015 in Taldykorgan [Taldyqorghhan] in Almaty Region, five Muslims - Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev, Kairat Esmukhambetov and Ruslan Kairanov - were sentenced to prison terms of between 18

and 20 months (see F18News 14 January 2015 http://www.forum18.org/archive.php?article_id=2027). At the final appeal hearing on 26 March, Almaty Regional Court reduced the sentences of all five men to one year's imprisonment each. The Prosecutor lodged a further cassational appeal. On 26 May the same court changed the terms of imprisonment from a prison to a labour camp, according to the verdict seen by Forum 18. As Nurmamanbetov, Tatubayev and Esmukhambetov had been arrested on 13 August 2014, their terms of imprisonment ended on 13 August 2015.

On 2 July in Kazakhstan's commercial capital Almaty prisoner of conscience Saken Tulbayev was sentenced to four years eight months' imprisonment. He was also banned from exercising freedom of religion or belief, including praying with others and reading the Koran, until the end of 2022 three years after his release (see F18News 8 July 2015 http://www.forum18.org/archive.php?article_id=2078).

Also currently imprisoned in pre-trial custody for exercising the right to freedom of religion or belief is 54-year-old Seventh-day Adventist prisoner of conscience Yklas Kabduakasov. The criminal case against him was handed for trial to Astana's Saryarka District Court No. 2 on 25 September, where it was assigned to Judge Akmaral Isayeva, according to court records. Kabduakasov was arrested in Astana on 14 August by the KNB secret police. They claim he was spreading "religious discord" when discussing his faith with and offering Christian books to others (see F18News 20 August 2015 http://www.forum18.org/archive.php?article_id=2092).

Tabligh Jamaat members have also been among the frequent victims of the administrative fines handed down to those who exercise freedom of religion or belief without prior state approval, such as talking to others of their faith, selling or distributing religious books or gathering for religious meetings. Others similarly punished include Protestant Christians, Hare Krishna devotees, Jehovah's Witnesses and commercial booksellers (see F18News 21 May 2014 http://www.forum18.org/archive.php?article_id=1960).

Three-year prison term

Apakashev, who lives in the city of Temirtau in Karaganda Region, began practising Islam in 2008. Prosecutors alleged that he later began associating with followers of the Tabligh Jamaat movement despite knowing of the 2013 court-ordered ban.

Prosecutors drew up a case against Apakashev under Criminal Code Article 405, Part 1. The KNB secret police and the Anti-Extremism Police arrested him in Karaganda on 22 February. Karaganda Regional Prosecutor sent the case to Temirtau City Court on 12 June, according to court records.

Apakashev's trial began at Temirtau City Court under Judge Natalya Shchegletova on 1 July. Hearings were said to be open. The prosecution case was led by Asyl Dautov of Temirtau Prosecutor's Office, while the lawyer Tolegen Amerbekov defended Apakashev. Twice - on 6 August and 7 September - Judge Shchegletova had to order the police to bring witnesses - including one from Astana and three from Taldykurgan - to court hearings.

At the 14th, final hearing on 29 September, Judge Shchegletova found Apakashev guilty and gave him a three year general regime prison sentence, Gulbakshin Zhitikova, spokesperson for Karaganda Regional Court, told KazTAG news agency the same day. She noted that the sentence has not yet come into legal force.

Three one-year restricted freedom sentences

In the city of Shymkent, in South Kazakhstan Region, prosecutors brought criminal cases against three local Muslim men, 49-year-old Bakytzhan Nuskabayev, 35-year-old Yerbol Zhaylymysov and 44-year-old Serik Oтынshyn. All were charged under Criminal Code Article 405, Part 2 as prosecutors alleged that they belonged to Tabligh Jamaat. The three were not arrested, but had to sign declarations that they would maintain "good behaviour" and not leave the city without first asking permission, according to court records.

The case was brought to court by Davlet Tlemisov of South Kazakhstan Regional Prosecutor's Office. The KNB's Anti-Extremism Department was also involved in preparing the case.

The three men's trial began on 2 September under Judge Talgat Kakharov at Shymkent's Al-Farabi District Court. On 16 September, Judge Kakharov found all three men guilty. Given what he said was the "less serious nature" of the crimes which did not demand imprisonment, he sentenced each to one year's restricted freedom, according to the verdict seen by Forum 18. As part of the restrictions, the Judge banned them from leaving the city without permission. He also banned them from visiting cafes, restaurants, bars, night clubs and discos.

Tlemisov defended the sentences handed down on Nuskabayev, Zhaylymysov and Oтынshyn. "These are dangerous people," he claimed to Forum 18 from Shymkent on 7 October. Asked whether they – or to his knowledge any other alleged members of Tabligh Jamaat – had set off bombs, he admitted they had not. Asked if they had murdered anyone or incited anyone to commit murder, he said they had not.

Asked what specifically the three men might have done to deserve criminal conviction, Tlemisov insisted they were members of a "closed organisation" that had been banned by a court. "They hold meetings and discussions directed at violating the constitutional system," he claimed. He refused to say if this meant they had called for an uprising or a coup. "They also read books which an expert analysis has found are not in accord with the law". He refused to say what objectionable views such books might contain.

Tlemisov was unable to say who might have suffered from anything the three men might have done.

Nuskabayev has been fined several times for exercising the right to freedom of religion or belief, including at least three times in 2014 (see F18News 21 May 2014 http://www.forum18.org/archive.php?article_id=1960).

Nuskabayev is on the Justice Ministry's list of those banned from leaving Kazakhstan because of unpaid fines from earlier court proceedings. One was a 2014 administrative fine for exercising the right to freedom of religion or belief. The other was a punishment for crossing the Kazakhstan/Kyrgyzstan border illegally, handed down on 30 March 2015.

Five men's two-month pre-trial detention

The KNB secret police arrested four alleged members of Tabligh Jamaat in Astana on 23 September at the request of the KNB secret police investigator, Astana KNB announced the same day on the KNB website, though without naming them.

On 25 September, Judge Nabi Pazylov of Saryarka District Court No. 2 ruled that the four men – Erbolat Omarbekov, Khalambakhi Khalym, Bolatbek Kozhageldinov and Nurzhan Nuradilov – should be held in two months' pre-trial detention, a court official told Forum 18 on 6 October.

"The pre-trial legal procedures were based on information on the active participation of the detainees in the activity of the extremist organisation Tabligh Jamaat, which is banned in Kazakhstan," the KNB secret police claimed. "These people had more than once been informed by the national security organs that Tabligh Jamaat had been banned through the courts and given official warnings of criminal responsibility for participation in its activity." The four were being held in the Police pre-trial detention prison in Astana.

The KNB secret police said the four were being investigated under Criminal Code Article 405.

A fifth was then arrested, apparently several days after the four. On 29 September, the same judge ordered that Kubaidolla Tyulyubayev should similarly be held in two-months' pre-trial detention. The five were represented by five different lawyers.

All five Muslims are accused of organising Tabligh Jamaat activity and are facing prosecution under Criminal Code Article 405, Part 1, the court official noted. The official refused to name the KNB secret police investigator.

Forum 18 tried to reach the head of Astana KNB, Kurman Yelyubayev, or any of his deputies. However, on 7 October Yelyubayev's assistant refused to put Forum 18 through to any of them. "We're such an organisation that we can't answer your questions," she told Forum 18, but refused to explain why the KNB secret police could not answer journalists' questions.

The address of the prison where the five men are currently being held is:

Astana

Raion Saryarka

Ul. Beibitshilik, d. 19

Izolyator vremennogo sodержaniya DVD g. Astana

Kazakhstan

Other criminal prosecutions

Another alleged member of Tabligh Jamaat, Nurulan Koyshybai, was also investigated under Criminal Code Article 405, he declared in evidence submitted in Tulbayev's trial in Almaty (see below).

Koyshybai was among four alleged Tabligh Jamaat adherents sentenced in April in Aktobe (see F18News 13 October 2015 http://www.forum18.org/archive.php?article_id=2110).

Appeal rejected

Tulbayev's lawyer Aiman Umarova appealed against his four year eight month prison sentence, handed down in Almaty on 2 July.

However, on 11 August Almaty City Court returned the initial appeal lodged in late July. He resubmitted his appeal on 17 August, but on 7 September the appeal collegium of Almaty City Court under Judge Serik Karymsakov rejected it, according to the decision seen by Forum 18.

"I met Saken many times in the Investigation Prison in Almaty," the lawyer Umarova told Forum 18 from the city on 7 October. "He was depressed about his situation." She noted that he was sent to the punishment cell in July for 15 days for refusing to go out for the prescribed exercise. "He didn't know it wasn't compulsory – it's a right, not an obligation," Umarova noted.

Prisoner transferred to distant labour camp on religious holiday

Early on 24 September, the prison authorities began Tulbayev's transfer from the Investigation Prison in Almaty, where he had been held since shortly after his 1 April arrest, to the general regime labour camp No. 18 (AP-162/3) in Pavlodar, Tulbayev's relatives told Forum 18 on 7 October. They confirmed that he has already arrived there.

Relatives learned of the imminent transfer only on 23 September, when they met the head of Almaty's Investigation Prison Nurlan Taibekov. He gave them one hour's notice to collect warm clothes for Tulbayev to take to labour camp to keep him warm during the winter.

"We asked how they could transfer Saken if he had been put again in the punishment cell about five days earlier for possessing a copy of the Koran which did not have the required stamp to show it had been approved by prison guards," relatives told Forum 18. "Taibekov insisted that Saken would be moved out at 6 am the following morning."

Relatives believe that prison officials specially chose the Muslim festival of Kurban Bairam (Eid al-Adha), marked in Kazakhstan on 24 September, to transfer Tulbayev. "It was hard for him because it is an important day."

Among the items relatives brought in a bag for Tulbayev was an Islamic calendar for 2016. Prison guards searched the bag for 40 minutes and did not reject any item. "We're not sure if everything was handed over to him," relatives said.

The Pavlodar labour camp is nearly 1,500 kilometres north of Almaty by road on a journey that takes more than 15 hours. That Tulbayev has been sent there will make visiting him difficult and expensive, relatives complained to Forum 18.

Tulbayev's address in labour camp is:

140000 g. Pavlodar

Severnaya promyshlennaya zona

Uchr. AP-162/3

Tulbayevu Sakenu Peisenovichu

Kazakhstan

Annual operation against religious "extremists"

Erkin Mambetov, head of the Department for the Struggle against Extremism in the Criminal Police Department of the Interior Ministry in Astana, has revealed that since 2012 an annual operation has been held to counter religious "extremism". Operation Uchastok (Russian for District) is held from 1 September to 1 December each year.

Officers visit residents' homes "to discover operational information on people participating in radical religious movements, where they hold meetings and live, and uncover violations of migration law", KazTAG quoted him on 28 September as telling an international conference on countering violent extremism.

Mambetov said that in a six month period in 2015, more than 630 reports came in about individuals "possibly holding radical religious views and who spread these radical ideas".

Mambetov put the number of those sentenced and imprisoned or arrested and held in pre-trial detention on charges of religious extremism at more than 600. Among those he identified was the imprisoned head of a Tabligh Jamaat cell in Almaty (an apparent reference to Tulbayev). He claimed that more than 350 of those prisoners "had moved to more moderate positions".

Mambetov did not make any distinction in his quoted remarks between individuals who hold a particular faith and those who commit or incite violence.

Forum 18 tried to reach Mambetov on 7 October but his phone went unanswered. (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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