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KAZAKHSTAN: New summary fines, no due process

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

In new development, three Council of Churches Baptists in Kazakhstan have been in 2016 fined by police without a court hearing, for meeting for worship without state permission. Human rights defenders know of no earlier cases since police acquired the power in January 2015.

In what appears to be a new development, three members of Council of Churches Baptist congregations in Kazakhstan are known to have been summarily fined by police officers without a court hearing so far in 2016, for meeting for worship without state permission. Prosecutors subsequently annulled one of the fines (see below). Baptists and human rights defenders are concerned that the new state tactic of summary police fines, to punish the exercise of freedom of religion or belief without state permission, might be used more widely.

"Such summary police fines haven't been used against us before," one Baptist – who has himself been fined and given short-term prison terms through the courts in earlier years – told Forum 18 on 12 July. "No one explained to us why they've suddenly started doing this." Baptists state that such summary police fines without a court hearing have not been used against them previously.

The Baptist added that in one of the three cases, a police officer simply stated that he imposed the fine as he had been told by his superiors that he had this power (see below).

Local human rights defenders and journalists have also told Forum 18 that there are no presently known cases of such summary police fines without a court hearing being imposed before now. This applies to members of both religious or public organisations since the new police power came into force at the beginning of 2015.

The power to impose summary fines without initial due process was first given to police under the latest 2015 revision of the Code of Administrative Offences (see below). President Nursultan Nazarbayev has ordered even harsher revisions of the Religion Law and other laws to be prepared by mid-August 2016 (see F18News 14 June 2016 http://www.forum18.org/archive.php?article_id=2188).

New summary power, no initial due process

Police were first given the formal power to fine people for exercising freedom of religion and belief without a formal court hearing in the latest Administrative Code. This was signed into law in July 2014 and came into force in January 2015. Previously, only courts could impose fines to punish individuals for exercising the right to freedom of religion or belief (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979). Such fines violate Kazakhstan's international human rights obligations (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

It is possible to challenge fines under the new police powers through the courts or a Prosecutor's Office. However, this process is more difficult than (as with court convictions) lodging an appeal to a higher court against a lower court decision.

Administrative Code Article 489, Part 9 gives police officers the right to fine individuals under with no court hearing. This punishes: "Leadership of an unregistered, halted, or banned religious community or social organisation" with a fine of 100 Monthly Financial Indicators (MFIs).

Article 489, Part 10 also gives police officers the right to fine people with no court hearing. This punishes: "Participation in an unregistered, halted, or banned religious community or social organisation" with a fine of 50 MFIs.

Article 489, Part 11 yet again gives police officers the right to fine people without a court hearing. This punishes: "Financing the activity of an unregistered, halted, or banned religious community or social organisation" with a fine of 200 MFIs.

A fine of 100 MFIs is currently 212,100 Tenge (about 5,200 Norwegian Kroner, 560 Euros or 625 US Dollars). This is about seven weeks' average wages for those in work, according to June 2016 average income figures from the government's Statistics

Committee. However, some of those fined are unemployed or pensioners on lower incomes, such as 89-year-old Yegor Prokopenko, one of the three Baptists known to have been handed such fines in 2016 (see below).

Most such administrative punishments are handed down through the courts, at which individuals can defend themselves, including with a lawyer if they wish. Cases under any Part of Article 490, which punishes "Violating the Religion Law", must be heard by a court. So too do cases under most Parts of Article 489, which punishes "offences" by social or religious organisations (see F18News 21 July 2014 http://www.forum18.org/archive.php?article_id=1979).

Against its international human rights obligations, Kazakhstan bans the exercise of freedom of religion and belief by more than one person without state permission. As is their internationally-recognised right, Council of Churches Baptists do not seek state permission to exist. The country has been asked to explain this violation of its obligations by the United Nations (UN) Human Rights Committee (see F18News 13 May 2016 http://www.forum18.org/archive.php?article_id=2177). In June the country presented misleading figures to the Committee on the number of Muslims, Jehovah's Witnesses and Protestants convicted by courts for exercising freedom of religion and belief (see F18News 15 July 2016 http://www.forum18.org/archive.php?article_id=2199).

First uses of summary police fine powers

On 22 May, at the age of 89 and a half, former Soviet-era Baptist prisoner of conscience Yegor Prokopenko was again fined for leading a meeting for worship in Zyryanovsk in East Kazakhstan Region. The local police officer imposed the fine under Administrative Code Article 489, Part 9 ("Leadership of an unregistered, halted, or banned religious community or social organisation"). He gave Prokopenko the prescribed fine of 100 MFIs, 212,100 Tenge, after raiding the church's Sunday meeting for worship. The officer gave him a form explaining how to pay (see F18News 14 June 2016 http://www.forum18.org/archive.php?article_id=2188).

In Ekibastuz in the north-eastern Pavlodar Region, two police officers raided a home on 16 May where a Baptist congregation meets for worship, local Baptists told Forum 18 on 12 July. No meeting was underway at the time, but the officers photographed religious literature. Police had to summon the owner of the home, Sofya Bunyak, from a nearby shop. They also summoned two witnesses to their search.

On 9 June, a police officer summarily imposed a fine on home-owner Bunyak. The officer said she had violated Administrative Code Article 489, Part 10 ("Participation in an unregistered, halted, or banned religious community or social organisation") and gave her the prescribed fine of 50 MFIs, 106,050 Tenge.

Bunyak complained about the fine to Ekibastuz Prosecutor's Office, but it responded to say if she wishes to appeal against the fine she would have to challenge it in court. She chose not to do so.

Bunyak had previously been fined in June 2013 through the courts, following police raids from 2011 on worship meetings in her home (see F18News 22 August 2013 http://www.forum18.org/archive.php?article_id=1868).

In the village of Sergeyevka in Akmola Region, the Region that surrounds the capital Astana, police raided the local Baptist congregation. A police officer said Aleksandr Belan had violated Article 489 and fined Belan, and the police officer stated that he imposed the fine as he had been told by his superiors that he had this power. However, prosecutors subsequently annulled the fine, Baptists told Forum 18.

Punishments frequent

Even without using the Article 489 powers, the authorities frequently impose punishments for exercising the right to freedom of religion or belief without state permission.

A total of 32 individuals are known to have been prosecuted under the Criminal Code since December 2014. Of these, 20 prisoners of conscience received jail terms (19 Sunni Muslims and one Seventh-day Adventist). Many have also had their bank accounts frozen and had to pay for "expert analyses" used to convict them. The rest received restricted freedom sentences (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

Five more Sunni Muslims are under criminal investigation and appear likely to face trial (see F18News 8 June 2016 http://www.forum18.org/archive.php?article_id=2186).

One of those recently sentenced for exercising freedom of religion and belief, Sunni Muslim prisoner of conscience Murat Takaumov, is serving a nine-month prison term handed down in Astana on 2 June for alleged involvement in the Tabligh Jamaat missionary movement (see F18News 8 June 2016 http://www.forum18.org/archive.php?article_id=2186). His appeal is due at Astana City Court on the afternoon of 20 July, according to court records.

Takaumov's relatives told Forum 18 that prison staff say he will not be brought to court for the appeal hearing. Relatives added that

he does not have a lawyer.

Also, many Muslims, Protestants and Jehovah's Witnesses are punished under the Administrative Code for exercising their freedom of religion and belief. In the first half of 2016, more than 20 individuals are known to have been punished with short-term imprisonment or fines. A Kazakh delegation to the UN Human Rights Committee in June presented misleading figures to the Committee on the numbers of such convictions (see F18News 15 July 2016 http://www.forum18.org/archive.php?article_id=2199). (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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