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KAZAKHSTAN: Cancer sufferer freed, other cases continue

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

Transferred by train from Pavlodar labour camp to cancer hospital in Almaty, Jehovah's Witness pensioner Teymur Akhmedov was pardoned and freed on 4 April. Prosecutors say a criminal case against a Protestant pastor will "soon" be closed down. Prosecutors are still investigating a five-year-old criminal case against an atheist. The trial of three Muslims continues in Karaganda.

After nearly a year and a quarter in jail, Jehovah's Witness prisoner of conscience, pensioner and cancer-sufferer Teymur Akhmedov was pardoned on 2 April and released from custody on 4 April. He had already been transferred by train from labour camp in the northern city of Pavlodar to a hospital in the southern city of Almaty, where he underwent a further operation.

The 61-year-old Akhmedov's release from his five-year prison term came as a result of a pardon from President Nursultan Nazarbayev. Akhmedov always vigorously refuted the charges that he had "incited religious discord" by talking about his faith to young men sent by the National Security Committee (NSC) secret police. Forum 18 was unable to reach the NSC investigator who had launched the criminal case against Akhmedov. He has since been transferred from the city to the national NSC (see below).

Forum 18 has been unable to find out if the authorities will lift the three-year post-sentence ban on Akhmedov conducting "ideological/preaching activity" or remove him from the list of "terrorists and extremists" whose bank accounts are frozen (see below).

An official of Kyzylorda City Police's Investigation Department told Forum 18 that the criminal case on the same charges of "inciting religious discord" against New Life Protestant Church pastor Serik Bisembayev "will soon be closed down for absence of a crime". The criminal case was opened the day the police raided his New Life Church congregation in February (see below).

Prosecutors are still investigating the criminal case on charges of "inciting religious discord or hatred" launched against the atheist blogger and human rights defender Aleksandr Kharlamov back in January 2013 (see below).

The trial in the central city of Karaganda of three Muslims accused of membership of the banned Muslim missionary movement Tabligh Jamaat is due to resume on the morning of 6 April. The Prosecutor's Office told Forum 18 that police investigators have not yet handed over criminal cases against three more Muslims arrested with them in October 2017 (see below).

Since December 2014, 63 alleged Tabligh Jamaat adherents (all of them Kazakh citizens) are known to have been given criminal convictions. Of these, 49 were given prison terms while 14 were given restricted freedom sentences (see F18News 5 March 2018 http://www.forum18.org/archive.php?article_id=2359).

Pardoned, further cancer operation

Jehovah's Witness prisoner of conscience, pensioner and cancer-sufferer Teymur Sultan ogly Akhmedov (born 7 May 1956) was serving his sentence in a labour camp in the northern city of Pavlodar. As the authorities refused to heed United Nations (UN) appeals for his "immediate release" (see below), he lodged an appeal for pardon earlier in 2018 while insisting that he was not guilty of any offence.

As Akhmedov's state of health worsened, he underwent surgery on 8 February. Doctors removed two tumours, one of which was malignant. On 12 February, doctors diagnosed sigmoid colon cancer. "The initial diagnosis by doctors in Pavlodar indicates that his cancer is transitioning from stage II to stage III, requiring urgent investigation and long-term treatment," Jehovah's Witnesses told Forum 18 in early March (see 5 March 2018 http://www.forum18.org/archive.php?article_id=2359).

In mid-March, the prison authorities decided to transfer Akhmedov to Almaty for further hospital treatment. As the train journey would take about five days the family offered to pay for him to be flown with any necessary guards. However, the prison authorities refused this offer and Akhmedov was transported by train, Jehovah's Witnesses told Forum 18.

Once in Almaty, Akhmedov was assigned to Almaty City Investigation Prison LA-155/1 and it was from this prison that he was

formally freed, according to the 4 April release certificate signed by Prison Chief Azamat Iztleuov and seen by Forum 18.

However, the authorities had already placed Akhmedov in a city cancer hospital. He underwent a further operation on 27 March and is now recuperating, Jehovah's Witnesses told Forum 18.

Akhmedov's wife Mafiza travelled down from their home in Astana to be with him in the Almaty hospital. Akhmedov was able to participate in hospital in the commemoration of the Memorial of Christ's Death, which Jehovah's Witnesses observed this year on 31 March, Jehovah's Witnesses told Forum 18.

President Nazarbayev signed Decree No. 656 on 2 April, pardoning Akhmedov and "releasing him from serving the rest of his punishment in the form of deprivation of liberty and expunging his criminal record". The Decree has not so far been published on the presidential website or on the database of legal acts, as of the end of the working day in Astana on 5 April.

Forum 18 has been unable to find out if Akhmedov's three-year post-sentence ban on conducting "ideological/preaching activity" remains in force. Any bank accounts Akhmedov has remain frozen as his name still appears on the most recent list (issued on 3 April) of the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism".

Forum 18 has been unable to find out if the authorities have provided Akhmedov with "an enforceable right to compensation and other reparations, in accordance with international law" in line with the UN Working Group on Arbitrary Detention Opinion on Akhmedov's case (see below).

Forum 18 was unable to reach Medet Duskazyev, the NSC secret police Investigator who launched the criminal case against Akhmedov. The officer who answered his phone at the Astana City NSC on 5 April told Forum 18 that Duskazyev has been transferred to a job in the central NSC secret police administration. The officer – who did not give his name – was unable to give Forum 18 a telephone number for him.

NSC secret police entrapment, arrest, torture, jailing

The NSC secret police arrested Akhmedov and another Jehovah's Witness in Astana in January 2017 for discussing their faith with others. Akhmedov was, as in other cases involving Muslim and Protestant prisoners of conscience, set up for prosecution by the NSC secret police using informers it recruited. These informers invited those prosecuted to meetings the NSC recorded in which they shared their beliefs.

Akhmedov was sentenced in May 2017 to a five year jail term with a further three-year ban on conducting "ideological/preaching activity" (see F18News 3 May 2017 http://www.forum18.org/archive.php?article_id=2277).

The national cancer centre stated in early 2017 that Akhmedov needed to be hospitalised for an operation, so his jailing broke the UN Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules). The judge claimed jailing was necessary to defend "a civilised society" (see F18News 2 February 2017 http://www.forum18.org/archive.php?article_id=2252).

Prisoner of conscience Akhmedov was also tortured in detention. However, in defiance of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - and as in other cases involving Muslim prisoners of conscience - no officials have been arrested or tried for torturing prisoners of conscience jailed for exercising freedom of religion and belief (see F18News 7 March 2017 http://www.forum18.org/archive.php?article_id=2262).

Akhmedov's lawyers were threatened with criminal trial for "revealing information from a pre-trial investigation". Their "crime" was to send copies of their legal appeal to President Nazarbayev and the Foreign Ministry (see F18News 3 April 2017 http://www.forum18.org/archive.php?article_id=2269).

But the criminal cases against the lawyers were dropped after prisoner of conscience Akhmedov was jailed (see F18News 22 September 2017 http://www.forum18.org/archive.php?article_id=2317).

Criminal Code Article 174

Akhmedov, a retired bus driver, was convicted under Criminal Code Article 174, Part 2 ("Incitement of social, national, clan, racial, or religious discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity, committed publicly or with the use of mass media or information and communication networks, as well as by production or distribution of literature or other information media, promoting social, national, clan, racial, or religious discord").

The UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association, the UN Human Rights Committee, and Kazakh human rights defenders have strongly criticised Article 174 and have repeatedly called for it to be reworded or abolished

(see F18News 3 May 2017 http://www.forum18.org/archive.php?article_id=2277).

Five of the 24 people known to have been convicted in 2017 to punish them for exercising freedom of religion or belief were convicted under Criminal Code Article 174. Five were Muslims while two (including Akhmedov) were Jehovah's Witnesses (see F18News 5 March 2018 http://www.forum18.org/archive.php?article_id=2359).

UN calls in October 2017 for Akhmedov's "immediate" release

On 2 October 2017, the UN Working Group on Arbitrary Detention publicly stated that Kazakhstan should release prisoner of conscience Akhmedov "immediately". The Working Group's Opinion (A/HRC/WGAD/2017/62) found that Kazakhstan contravened both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. "The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Akhmedov immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law".

On 9 January 2018 the UN Human Rights Committee also called for interim measures "without delay" so that prisoner of conscience Akhmedov could receive adequate medical care. Yet Kazakhstan's Supreme Court and the government still refused to release him (see F18News 12 January 2018 http://www.forum18.org/archive.php?article_id=2345).

"Inciting religious discord" charges against Protestant Pastor to be dropped?

An official of Kyzylorda City Police's Investigation Department told Forum 18 on 5 April that the criminal investigation against New Life Protestant Church pastor Serik Bisembayev "will soon be closed down for absence of a crime". He was being investigated on charges of "inciting religious discord" under Criminal Code Article 174, Part 2 ("Incitement of social, national, clan, racial, or religious discord").

"No one is planning to imprison him," added the official, who would not give his name. He refused to discuss the case further, insisting that Bisembayev would be informed of the "legal decision" in writing. The official refused to say if the pastor, or any church members, would face prosecution under the Administrative Code. Nor would the official say if the books officers seized from Pastor Bisembayev had been returned.

Police opened the criminal case against Pastor Bisembayev on 25 February, the same day officers raided his New Life Church congregation in the southern city of Kyzylorda. Officers of the Regional Police's Department for the Struggle with Extremism as well as the city police halted Sunday worship, filmed those present, and forced them to state why they attend. Teachers from a Special School for children with hearing difficulties questioned adult former students why they were present and insulted their faith (see F18News 26 March 2018 http://www.forum18.org/archive.php?article_id=2364).

Five-year criminal investigation continues

Prosecutors in the northern town of Ridder in East Kazakhstan Region are still investigating the criminal case launched back in January 2013 against the atheist blogger and human rights defender Aleksandr Milentievich Kharlamov (born 2 July 1950). He is being investigated on charges of "inciting religious discord or hatred" under Article 164 of the old Criminal Code (equivalent to Article 174 of the current Criminal Code) for his writings on religion.

Said Aimukhan, Ridder's Prosecutor who is leading the criminal case against Kharlamov, told Forum 18 on 5 April that the case is "being investigated". Asked why it is still being investigated more than five years after it was opened, Aimukhan put the phone down. Subsequent calls went unanswered.

Prosecutors launched the case after claiming to have found insults to members of various faiths in his writings, claims he denied. As part of that case he spent from March to September 2013 in pre-trial detention, including a month in a psychiatric hospital (see F18News 7 March 2017 http://www.forum18.org/archive.php?article_id=2262).

"They're refusing to close down the criminal case because I'd then have the right to take them to court for exceeding their powers," Kharlamov told Forum 18 from Ridder on 5 April. "Given my age, they're just spinning it out until I die." However, he said he was preparing to lodge a case to court within the month against the prosecutor's failure to bring the case to court or close it down.

Kharlamov added that prosecutors have returned all the books seized from him. Although the court-imposed restrictions on his movement remain in force, they are not being applied. "But they could stop me from travelling abroad."

Criminal trial underway

After nearly six months' pre-trial detention, the criminal trial of three Muslims began under Judge Maulet Zhumagulov at October District Court in the central city of Karaganda on 12 March. Kazbek Asylkhanovich Laubayev (born 30 October 1978), Marat Amantayevich Konyrbayev (born 16 March 1981), and Taskali Nasipkaliyevich Naurzgaliyev (born 3 May 1981) are being tried on

charges of membership of the Muslim missionary movement Tabligh Jamaat.

Further hearings were held on 19 and 27 March. The trial is due to continue at 11 am on 6 April, according to court records.

The three were among six Muslims arrested in a "special operation" in Karaganda in October 2017. The case was prepared by the NSC secret police and the ordinary police (see F18News 12 January 2018 http://www.forum18.org/archive.php?article_id=2345). The other three Muslims detained with them are still being investigated (see below).

Laubayev, Konyrbayev and Naurzgaliyev are being tried under Criminal Code Article 405, Part 1. This punishes "organising 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" with a fine or up to six years' imprisonment.

At the initial hearing on 12 March, witnesses were questioned. They insisted the three Muslims did nothing wrong, Yelena Weber of Radio Free Europe's Kazakh Service, who was present in court, noted the same day. The witnesses said all they did was "after Friday namaz [prayers] they gathered in a flat over a cup of tea and spoke about Allah".

Yergen Yezhanov of October District Prosecutor's Office, who is leading the case in court, told the hearing that the three men participated in Tabligh Jamaat's activity before an Astana court banned the movement in 2013. They continued to do so knowing the movement had been banned, Yezhanov claimed, spreading the group's "ideology" in Karaganda Region and recruiting new members.

Relatives of the three men, who are each married with several young children, rejected the accusations. One of Konyrbayev's sisters told Radio Free Europe that her brother always told them "Pray the namaz and fear Allah". "He acknowledges only that they gathered, drank tea, prayed and spoke about Allah," she insisted.

"Before 2013 nothing like this happened," another sister told Radio Free Europe. "Everything was possible: praying the namaz, going to mosque, meeting together, drinking tea. Now the law is that no more than three can meet together."

The relatives added that the three men did not have the money to pay for lawyers of their choice.

Criminal cases not reached Prosecutor's Office

Three other Muslims arrested in Karaganda in October 2017 together with Laubayev, Konyrbayev and Naurzgaliyev are still being investigated on criminal charges. "The three men's cases have not yet reached the Prosecutor's Office," an official of Karaganda's October District Prosecutor's Office told Forum 18 on 5 April. He refused to discuss the cases further.

In early November 2017, October District Court ordered the three men to remain at home under restrictions as the criminal investigation against them under Criminal Code Article 405 continued. The court has periodically extended the restrictions (see F18News 12 January 2018 http://www.forum18.org/archive.php?article_id=2345).

Forum 18 understands that the three men have been questioned at the trial of Laubayev, Konyrbayev and Naurzgaliyev. (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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