

20 April 2020

KAZAKHSTAN: Emergency hospital stay for jailed Muslim

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

Muslim prisoner of conscience Zhuldyzbek Taurbekov, who suffers from dilated cardiomyopathy, was transferred from Investigation Prison to Almaty's Cardiology Centre but after six days was today (20 April) transferred back. "Doctors say he's better, but I don't believe it," says Taurbekov's mother. Earlier in April, Almaty City Court rejected Taurbekov's appeal against a seven-year jail term for participating in a Muslim WhatsApp group.

On 14 April, prison authorities transferred the seriously ill Muslim prisoner of conscience Zhuldyzbek Taurbekov from Almaty's Investigation Prison to the city's Cardiology Centre. However, they transferred him back to prison today (20 April). "Doctors say he's better, but I don't believe it," Taurbekov's mother Asemgul Zhaugasheva told Forum 18. "Six days is not enough for him to have recovered. He should have stayed longer in hospital."

Zhaugasheva added that she does not know if her son has been put back in a cell, or is in the Investigation Prison's medical unit. During his six-day stay in the Cardiology Centre, she was not able to visit her son because of the coronavirus outbreak. She saw him once, only from a distance (see below).

An official of the Special Department at Almaty's Investigation Prison refused to answer any of Forum 18's questions about prisoner of conscience Taurbekov, including about who had taken the decision to transfer him to the Cardiology Centre and back again, and whether doctors had recommended that he be transferred there before 14 April (see below).

Taurbekov's transfer to hospital came less than a week after Almaty City Court rejected the 41-year-old's appeal against his seven-year jail term for participating in a WhatsApp Muslim discussion group and his request for release from prison on health grounds (see below).

Taurbekov was arrested in October 2018 as one of a group of nine men who had taken part in the WhatsApp Muslim group. The authorities accused them of propaganda of terrorism and inciting hatred, charges all nine denied. An independent analysis of one of the messages found no incitement or aggression, while a second found the prosecution's "expert analysis" had been conducted "superficially" (see below).

The other eight Muslims were jailed in August 2019 for between five and a half and eight years. The case against Taurbekov was separated off from the others' case in July 2019 because of his condition and he was then tried individually (see below).

Now Taurbekov has lost his appeal, he is likely to have any bank accounts blocked, potentially making life very difficult for his wife and their young children (see below).

Taurbekov is among 24 known prisoners of conscience serving sentences for exercising freedom of religion or belief, all of them Sunni Muslims. In addition to those in prison, others have also been punished for exercising freedom of religion or belief: sentenced in absentia (3); serving restricted freedom sentences (6); under post-jailing bans (16); and still have bank accounts blocked after completing sentences (27) (http://www.forum18.org/archive.php?article_id=2566).

2018 arrest, pre-trial detention, trial

On 27 October 2018, about 15 officers of the National Security Committee (NSC) with guns (http://www.forum18.org/archive.php?article_id=2497) burst into the home of Zhuldyzbek Abikenovich Taurbekov (born 20 September 1978) in Alatau District in Kazakhstan's commercial capital Almaty.

"They came with no warning," Taurbekov's mother Asemgul Zhaugasheva, who lives close by and was there at the time, told Forum 18 in November 2019. "The children were afraid, and we were in shock." The NSC officers showed a search warrant, but the family did not examine it because of the shock of the raid. "It was like in a film," she recalled.

The NSC officers handcuffed Taurbekov and took him away. They also searched the family home, taking copies of the Koran,

history books and other books, as well as a mobile phone and an old computer.

Taurbekov and eight other Muslims were all taken to the NSC's Investigation Prison LA-155/18 in Almaty. Some of the men already knew each other, but others had never met and had only ever communicated via the group.

Taurbekov and the other eight men faced criminal charges of promoting "propaganda of terrorism" and "inciting hatred" for participation in a WhatsApp discussion group about Islam, which was monitored by the National Security Committee (NSC) secret police.

NSC secret police Investigator Lieutenant-Colonel Rakhat Rustemov claimed that the WhatsApp group promoted terrorism. Neither he, nor the indictment, nor the four successive prosecutors during the trials appear to have tried to establish whether or not any of the defendants had committed or called for terrorism. (http://www.forum18.org/archive.php?article_id=2498)

Among the messages the group's participants circulated was one by Azamat Umbetaliyev, warning about innovations in religion. An analysis of the message - commissioned by his defence lawyer from Adil Soz (Free Word) International Foundation for Protection of Freedom of Speech – found neither any incitement to hostility, aggression, or violence towards others based on their religious affiliation, nor any assertion or propaganda that anyone is superior or inferior to anyone else based on their religious affiliation. (http://www.forum18.org/archive.php?article_id=2498)

A separate analysis of the prosecution's "expert analysis", commissioned by the defence from the St Petersburg Centre of Independent Expert Analysis and Evaluation, found that the Kazakh expert had conducted her analysis "subjectively". (http://www.forum18.org/archive.php?article_id=2524)

The criminal trial of all nine Muslims – including Taurbekov – began at Almaty's Almaly District Court on 12 March 2019 (http://www.forum18.org/archive.php?article_id=2497). However, on 3 July 2019, as his health worsened (see below), Taurbekov's case was separated off from that of the other eight. (http://www.forum18.org/archive.php?article_id=2498)

The Judge jailed the other eight Muslims for between five and a half and eight years on 5 August 2019 (http://www.forum18.org/archive.php?article_id=2498). The eight men are among the 24 known prisoners of conscience serving jail sentences for exercising freedom of religion or belief (http://www.forum18.org/archive.php?article_id=2566).

Seven-year jail term

Zhuldyzbek Taurbekov's trial finally began at Almaty's Almaly District Court on 3 December 2019. On 6 January 2020, Judge Kairat Imankulov found Taurbekov guilty of violating Criminal Code Article 256, Part 2 and Article 174, Part 2 and sentenced him to seven years' imprisonment in general regime labour camp, according to the decision seen by Forum 18. He denied any wrongdoing.

Article 256 punishes "Propaganda of terrorism or public calls to commit terrorism".

Article 174 punishes "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".

In addition to the jail term, Judge Imankulov also ordered that Taurbekov pay 20 Monthly Financial Indicators, 48,100 Tenge, financial compensation to his "victims" (in fact to the Victims' Compensation Fund). The Judge also ordered him to pay 112,295 Tenge in court fees and the cost of "expert analyses" in the case, according to the verdict. The total fees represent more than three months' average wage for those in formal work.

As he announced the verdict, Judge Imankulov allowed Taurbekov to sit in the defendant's cage in the courtroom because of his poor state of health, particularly his heart condition, Kazis Toguzbayev of Radio Free Europe's Kazakh Service, who was present in court, noted on 6 January. The Judge stressed that the seven year prison term was the minimum punishment under these Criminal Code articles. The Judge added that Taurbekov could apply for release from prison on health grounds.

City Court rejects appeal

Taurbekov appealed against his sentence and prison term, as well as appealing for his early release on health grounds. However, a panel of three judges at Almaty City Court chaired by Judge Askhat Ashirbekov rejected both parts of his appeal on 9 April, the Judge's assistant told Forum 18 on 20 April. He said the decision came into force immediately. The court said the decision was issued in writing on 19 April.

The Judge's assistant refused to give any other information about Taurbekov's appeal hearing. "You are not a party to the case," he told Forum 18.

The appeal hearing was held on 8 and 9 April remotely because of the coronavirus outbreak, Taurbekov's lawyer Farkhat Guliyev told Forum 18 from Almaty on 15 April. The three judges were at the court, the prosecutor was on the phone, Guliyev and Taurbekov's mother were at the lawyer's office and the translator into Kazakh (Taurbekov's mother's native language is Kazakh while the trial and appeal were heard in Russian) was in another location. The court rejected defence appeals for Taurbekov to be present in court.

Following the rejection of Taurbekov's appeal, his mother Asemgul Zhaugasheva (who is also his public defender) lodged an appeal electronically to the Interior Ministry's Criminal Implementation Committee for him to be sent not to a distant labour camp but to be held either at Almaty's Investigation Prison or to a labour camp in Almaty Region.

Zhaugasheva argued that her son needed urgent treatment and his condition needed to be constantly monitored, and that his family, with young children, lives in Almaty, Radio Free Europe noted.

Urgent hospitalisation

Taurbekov was already ill at the time of his arrest on 27 October 2018. He attended some of the earlier hearings at the trial at Almaty District Court, but the last time he was brought to court was to the 24 June 2019 hearing. On 27 June he was taken from Investigation Prison to hospital.

Taurbekov was treated as an in-patient at Almaty's Cardiology Centre from 27 June to 6 July 2019, and again from 7 to 15 July 2019, according to medical records seen by Forum 18. On 23 October 2019, after he had been imprisoned for almost a year, he was issued a certificate as a second-category invalid (seen by Forum 18). This category includes those who suffer "persistent severe impairment of bodily functions" which reduce the ability to move, look after oneself or work.

Doctors have given Taurbekov a diagnosis of dilated cardiomyopathy (a disorder in which the chambers of the heart are enlarged because the heart muscle is weakened and cannot pump effectively) with reduced ejection function, as well as arterial hypertension and other complaints, his lawyer Farkhat Guliyev told Forum 18.

On 14 April 2020, prison officials transferred Taurbekov from Almaty's Investigation Prison to the city's Cardiology Centre, Guliyev told Forum 18. He was placed in the Centre's Chronic Heart Condition ward.

That afternoon, the Cardiology Centre phoned Taurbekov's mother Asemgul Zhaugasheva at her son's request to inform her that he had been urgently transferred there. "When I got there it was nearly five o'clock in the afternoon," she told Toguzbayev of Radio Free Europe's Kazakh Service the same day. "No doctor was present. They didn't allow me in. Only the head of the prisoner transfer staff came down and said that my son had been hospitalised. He said nothing about my son's condition."

However, the Cardiology Centre transferred Taurbekov back to prison in the afternoon of 20 April. "Doctors say he's better, but I don't believe it," Zhaugasheva told Forum 18 the same day. "Six days is not enough for him to have recovered. He should have stayed longer in hospital."

Zhaugasheva added that she does not know if her son has been put back in a cell, or is in the Investigation Prison's medical unit. During his six-day stay in the Cardiology Centre, she was not able to visit her son because of the coronavirus outbreak. She saw him once, only from a distance.

An official of the Special Department at Almaty's Investigation Prison – who did not give her name - refused to answer any questions about prisoner of conscience Taurbekov, including about who had taken the decision to transfer him to the Cardiology Centre and whether doctors had recommended that he be transferred there before 14 April. "We don't give any information by telephone," she told Forum 18 on 20 April. She then put the phone down.

Taurbekov's address at Investigation Prison LA-155/18 in Almaty's Turksib District:

050054, g. Almaty

Turksibsky raion

Ul. Krasnogorskaya d. 73

Uchr. LA-155/18

United Nations rules on treatment of prisoners

The United Nations Standard Minimum Rules for the Treatment of Prisoners (known as the Mandela Rules, A/C.3/70/L.3 (http://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf)) apply to people who have been sentenced as well as those in pre-trial detention. Rule 27 states in part: "Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals .. Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff."

In January 2017, an Astana court ordered cancer sufferer Teymur Akhmedov held in pre-trial detention while he awaited trial on criminal charges of sharing his faith as a Jehovah's Witness with others. The Judge rejected defence pleas (including a doctor's report stating the need for hospitalisation) to have him transferred to house arrest so that he could gain treatment. (http://www.forum18.org/archive.php?article_id=2252)

Akhmedov was jailed for five years on charges of "inciting religious discord or hatred", charges he rejected, with a further post-jailing three-year ban on religious activity. During his imprisonment, as his condition worsened, he was diagnosed with sigmoid colon cancer and eventually transferred to hospital. He was pardoned in April 2018. (http://www.forum18.org/archive.php?article_id=2366)

Bank account blocking expected

Now Taurbekov has lost his appeal, he is likely to have any bank accounts blocked, potentially making life very difficult for his wife and their young children.

Those convicted for exercising freedom of religion or belief are almost always added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". Being added to the List means that any bank accounts an individual may have are blocked with no further legal process. Their families often find out about the blocking of accounts only when they go to the bank. Families are allowed to withdraw only small amounts for daily living if they do not have other sources of income. (http://www.forum18.org/archive.php?article_id=2409)

Individuals remain on the Financial Monitoring Committee List for six or eight years after their sentence has expired as they are deemed still to have a criminal record. (END)

Full reports on freedom of thought, conscience and belief in Kazakhstan (<http://www.forum18.org/archive.php?query=&religion=all&country=29>)

For more background, see Forum 18's Kazakhstan religious freedom survey (http://www.forum18.org/archive.php?article_id=2409)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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