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KAZAKHSTAN: Fined, as "he had no basis for conducting a religious event"

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

Zakirzhan Rozmetov was fined for leading evening prayers during Ramadan in a Shymkent mosque stripped of registration in 2021. "Rozmetov broke the law – he had no basis for conducting a religious event," said Alzhan Tuyakbayev, head of Shymkent's Religious Affairs Department. Courts fined other individuals up to one month's average wage in the first half of 2023 for prayer rooms in a cafe, roadside restaurant and shopping centre. Astana Police "anti-extremism" officers inspected "illegal" prayer rooms in a technohub, IT centre and concert organisation, leading to fines.

Regime officials have brought 10 known prosecutions in the first half of 2023 to punish individuals and organisations for maintaining and using places to pray without receiving state permission. Eight of the prosecutions – all of them involving Muslims – have ended with fines, while some have ended up also with court-ordered bans on activity.

Six individuals were each fined up to one month's average wage for those in formal work. Two organisations were each fined the equivalent of six weeks' average wage for an individual. One of these organisations had a separate fine overturned on appeal. In the final case, the court said the case against the organisation was not proved (see below).

Four of the prosecutions were in the capital Astana, three in the southern Zhambyl Region, two in the southern city of Shymkent and one in the southern Turkistan Region (see below).

In Kordai District of Zhambyl Region, two individuals were punished for establishing prayer rooms in a cafe and a shopping centre. In the third case in Zhambyl Region, an individual was fined for a prayer room in a roadside restaurant (see below).

In Shymkent, an individual was fined for leading evening prayers during Ramadan in a mosque stripped of registration in 2021. It is illegal for any religious community to exist or exercise freedom of religion or belief without state registration. The court decision notes that Zakirzhan Rozmetov's leading of prayers "is contrary to the requirements of the legislation in the field of religion". It adds that he "does not work as an imam or teacher in the representative office and is not registered as a clergyman in the local executive bodies" (see below).

The head of Shymkent Akimat's Religious Affairs Department (which prepared the case against Rozmetov), Alzhan Tuyakbayev, insisted that his officials had acted in accordance with the law. "Rozmetov broke the law – he had no basis for conducting a religious event," he told Forum 18. "He had the right to appeal if he felt that his rights had been violated, but he didn't do so" (see below).

Officers of Astana Police's "Struggle with Extremism Department" were involved in inspecting prayer rooms in the four cases in the city, relating to a technohub, an IT centre and a concert organisation. The assistant (who did not give his name) of Marat Tulebayev, the head of Astana Police, refused to explain to Forum 18 why (see below).

Two local religious affairs officials – in Astana and in Zhambyl Region - pointed to Article 7-1 of the Religion Law, which came into force in January 2022. This specifies that registered religious communities need to seek official permission for religious events outside their approved places of worship. However, only registered religious organisations can ask for such permission, not other organisations or individuals (see below).

No one at the Information and Social Development Ministry's Religious Affairs Committee was prepared to explain to Forum 18 why courts fine people and institutions for maintaining or using places to pray without state permission.

The nine known prosecutions in the first half of 2023 to punish individuals and organisations for maintaining and using places to pray without receiving state permission were among more than 110 administrative prosecutions for exercising freedom of religion or belief. This represents a sharp rise in the number of such prosecutions since 2022 (see below).

Tight controls on exercising freedom of religion or belief

The regime imposes tight restrictions on the exercise of freedom of religion or belief (https://www.forum18.org/archive.php?article_id=2753). Against legally-binding international human rights obligations, the Religion Law allows only state-registered religious communities to hold meetings for worship which must be at state-approved locations. The Muslim community faces even tighter restrictions: only mosques subject to the state-controlled Muslim Board are allowed to exist.

All other meetings for worship risk punishment. Individuals, charities and companies face fines under Administrative Code Article 490, Part 1, Point 1 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for conducting religious rites, ceremonies and/or meetings") for holding meetings for worship without state permission or allowing such meetings to be held in their premises.

Under Religion Law Article 7-1 (https://www.forum18.org/archive.php?article_id=2753), introduced in December 2021 amendments (https://www.forum18.org/archive.php?article_id=2709), any religious community which wants to hold an event away from its own place of worship must get state permission for the event in advance. Officials insist this applies to prayer rooms. However, this means that only registered religious communities can seek such permission for prayer rooms, not individuals.

No one at the Information and Social Development Ministry's Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2753) was prepared to explain to Forum 18 why courts fine people and institutions for maintaining or using places to pray without state permission.

Yerzhan Nukezhanov, chair of the Religious Affairs Committee, did not answer his phone on 5 July. The man who answered the phone of deputy chair Bauyrzhan Bakirov said he was on holiday. The man –who said he was Bakirov's deputy but would not give his name – refused to answer any questions. "Ask the Foreign Ministry," he said and put the phone down. The Committee's Department for Links with Islamic Organisations refused to answer any questions.

In 2022, courts are known to have heard 26 cases against 17 individuals, 4 businesses, 3 charities and 1 Protestant Church for holding "illegal" religious meetings and rituals. Of these, 20 ended with fines (https://www.forum18.org/archive.php?article_id=2821).

The fines on "illegal" prayer rooms are part of an upsurge in 2023 of administrative cases to punish the exercise of freedom of religion or belief. More than 110 administrative cases are known to have been brought in the first half of 2023, compared to 144 in the whole of 2022 (https://www.forum18.org/archive.php?article_id=2821).

Astana: Acquitted over alleged prayer room in technopark

On 27 January, officers of Astana Police's "Struggle with Extremism Department" (https://www.forum18.org/archive.php?article_id=2753) in the capital Astana inspected Astana Hub IT start-up technopark and found an "unregistered prayer room". Officials took video and photos of the room.

The assistant (who did not give his name) of Marat Tulebayev, the head of Astana Police, refused to explain to Forum 18 on 5 July why officers of the "Struggle with Extremism Department" were involved in inspecting prayer rooms.

Turat Gabdrakhmanov, chief specialist at the City Akimat's Religious Affairs Department (https://www.forum18.org/archive.php?article_id=2753), prepared a record of an offence against Astana Hub under Administrative Code Article 490, Part 1, Point 1 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for conducting religious rites, ceremonies and/or meetings"). The case was handed to Astana's Specialised Inter-District Administrative Court.

At the court hearing, Astana Hub's representative K. Asenov insisted that the room was for staff of the renting companies to perform yoga and play board games. "They did not open a prayer room there and had no intention of opening one," the court decision notes. "He knows that permission from the authorised body is required to open a prayer room." He noted that no one was in the photos or videos, let alone anyone at a religious event.

On 28 March, Judge Bauyrzhan Akhmetkaliyev found that evidence that the room had been used for prayer was not sufficient. "Specific evidence was not presented to the court by the authorised body," he wrote in the court decision seen by Forum 18. He closed the case.

Gabdrakhmanov was involved in three other known prosecutions in 2023 over "illegal" places to pray (see below). He also prepared numerous other cases for court and appeared in court when individuals and organisations have been prosecuted for exercising freedom of religion or belief, not only for maintaining "illegal" places to pray.

The woman who answered the phone at the City Akimat's Religious Affairs Department

(https://www.forum18.org/archive.php?article_id=2753), who did not give her name, said that Gabdrakhmanov no longer works for the Department. She insisted that the prosecution of Astana Hub was in accord with the law. "It is in the law and we have to implement the law," she told Forum 18 on 5 July.

Asked why individuals and organisations are punished for maintaining places to pray away from recognised places of worship, for example in offices, she responded: "You don't need permission to pray, but you do to open a namazkhana [prayer room]." She pointed to Religion Law Article 7-1 (https://www.forum18.org/archive.php?article_id=2753). She did not refer to the fact that, under Religion Law Article 7-1, only state-registered religious organisations - not individuals or other organisations - can ask for permission to hold a pilgrimage or other event away from their own state-approved place of worship. Regime officials are given many opportunities to refuse such requests.

Asked whether it is illegal for, say, several people to get together to pray in an empty room somewhere if they do not disturb other people, she responded: "It depends on where they pray."

Astana: Punished for prayer rooms in congress centre

On 30 January, officers of Astana Police's "Struggle with Extremism Department" (https://www.forum18.org/archive.php?article_id=2753) inspected a congress centre run by the company QazExpoCongress. Officers found two rooms that had been used for prayer, with signs, prayer mats and a Koran stand, and took photos.

The assistant (who did not give his name) of Marat Tulebayev, the head of Astana Police, refused to explain to Forum 18 on 5 July why officers of the "Struggle with Extremism Department" were involved in inspecting prayer rooms.

The officers informed the Religious Affairs Department (https://www.forum18.org/archive.php?article_id=2753) of the city Akimat (administration), where officials prepared two cases against the company for maintaining an unregistered prayer room under Administrative Code Article 490, Part 1, Point 1 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for conducting religious rites, ceremonies and/or meetings").

At the hearing in the first case at Astana's Specialised Inter-District Administrative Court on 27 March, Judge Talgat Imanalin found the company guilty and fined it 200 MFIs and banned it from functioning for three months. Turat Gabdrakhmanov, chief specialist at the City Akimat's Religious Affairs Department, backed the prosecution in court.

Astana City Court overturned this punishment on 26 April, according to the decision seen by Forum 18. The court found that the lower court had not considered the company's contention that the renters of the rooms, not the company should be liable for any violation of the law.

At the hearing in the second case at Astana's Specialised Inter-District Administrative Court on 5 April, Gabdrakhmanov of the Religious Affairs Department (https://www.forum18.org/archive.php?article_id=2753) insisted that the prayer rooms had been illegal as they had no permission from his Department.

Company representative A. Meyirzhan explained to the court that the congress centre had hosted an intergovernmental conference between Kazakhstan and Iran on trade, science and cultural cooperation. Iranian delegates had used the prayer rooms (one for men and one for women).

This did not stop Judge Akerke Bekturganova finding the company guilty and fining it 140 Monthly Financial Indicators or 483,000 Tenge, according to the decision seen by Forum 18. The fine on the company is the equivalent of six weeks' average wage for an individual.

On 3 May, Judge Alikhan Kasenov of Astana City Court rejected the company's appeal against the fine. "It was established that the functioning in an administrative building .. of a prayer room (namazkhana) had not been agreed with the local executive body", notes the decision seen by Forum 18.

"The society knew in advance that the delegation from the Islamic Republic of Iran would raise the issue of providing a prayer room," the decision adds, "so it was necessary to request a decision from the authorised body [Religious Affairs Department (https://www.forum18.org/archive.php?article_id=2753)] to hold religious ceremonies outside religious buildings."

Sortobe: Punished for prayer room in cafe

On the afternoon of Friday 17 February, officials came to the cafe run by Idris Mayankhu in the village of Sortobe in Kordai District of the southern Zhambyl Region. They filmed and photographed the prayer room.

On 3 April, officials prepared a record of an offence against 26-year-old Mayankhu under Administrative Code Article 490, Part 1, Point 1 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for conducting

religious rites, ceremonies and/or meetings"). The case was handed to Kordai District Court.

"At the court session, I. Mayankhu fully admitted his guilt," the court decision notes, "and showed that since the day the cafe opened, he had equipped two rooms for praying inside the building and hung a 'prayer' sign outside, because the visitors and employees of the cafe are religious people."

On 13 April, Judge Turlybayev found Mayankhu guilty and fined him 50 MFIs (1 month's average wages) and banned his activity (presumably running his cafe) for three months.

Saken Mynbayev, head of Zhambyl Region Akimat's Religious Affairs Department, said his officials had not been involved in the case of Mayankhu, nor in those of Marov and Shalatayev (see below). "We didn't prepare the records of an offence," he told Forum 18 from Taraz on 5 July.

Asked why individuals are punished for maintaining places to pray without state permission, Mynbayev responded: "They must get permission. Article 7-1 of the Religion Law requires it." He did not refer to the fact that, under Religion Law Article 7-1 (https://www.forum18.org/archive.php?article_id=2753), only state-registered religious organisations - not individuals or other organisations - can ask for permission to hold a pilgrimage or other event away from their own state-approved place of worship. Regime officials are given many opportunities to refuse such requests.

When Forum 18 told Mynbaev that Kazakhstan's legally binding international human rights obligations protect the right to exercise freedom of religion or belief with or without state permission, he replied: "It is in our law. I can't comment on the law – I can't say if it is good or bad."

Masanchi: Punished for prayer room in shopping centre

On Friday 17 February, two unknown officials found an "illegally functioning prayer room for praying the namaz" in a shopping centre in the village of Masanchi in Kordai District of the southern Zhambyl Region. The premises were being rented by 41-year-old Arsmame Marov. The officials filmed the prayer room, which they said was illegal because it had no state registration (https://www.forum18.org/archive.php?article_id=2753).

On 1 April, officials prepared a record of an offence against Marov under Administrative Code Article 490, Part 1, Point 1 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for conducting religious rites, ceremonies and/or meetings"). The case was handed to Kordai District Court.

On 13 April, Judge Zeinet Abdikerimov found Marov guilty and fined him 50 MFIs (1 month's average wages) and banned him for three months from "conducting religious rituals", according to the court decision seen by Forum 18.

"Current law does not ban the conducting of religious rituals," the decision claims, "but demands the observance of the procedure for registration, which Marov lacked in the legally-established form." The decision said Marov had "fully admitted his guilt and repented of what he had done".

Zhambyl: Punished for prayer room in restaurant

Apparently on 26 February, a Zhambyl District Police inspector found that 41-year-old Asylbek Shalatayev was hosting a prayer room in his roadside restaurant.

The Police Inspector drew up a record of an offence against Shalatayev under Administrative Code Article 490, Part 1, Point 4 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for .. construction of religious buildings, and changing the profile (functional purpose) of a building into a religious building"). The case was handed to Zhambyl District Court.

On 15 March, Judge Zhambyl Sarzhanov found Shalatayev guilty and fined him 35 MFIs (3 weeks' average wages).

Shymkent: Punished for prayer room

On the afternoon of 14 March, police in the southern city of Shymkent discovered that "religious rituals were being performed in a prayer hall". Police drew up a record of an offence against Gulomzhon Israilov under Administrative Code Article 490, Part 1, Point 1 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for conducting religious rites, ceremonies and/or meetings"). The case was handed to Shymkent City Specialised Inter-District Administrative Court.

At the court hearing, Israilov admitted that he had established the prayer room. He explained that he had done so "so that people could come and pray". He said he did not know that it was against the law to establish a prayer room without state permission and asked the court not to impose a heavy penalty.

On 6 April, Israilov's 41st birthday, Judge Nurlan Nyshanov found him guilty and fined him 50 MFIs (1 month's average wages) and also imposed a suspension on activity, apparently of three months, according to the decision seen by Forum 18.

Shymkent: Punished for Ramadan evening prayers in closed mosque

At 10:40 pm on 12 April, during the Muslim holy month of Ramadan, Shymkent Akimat's Religious Affairs Department discovered that 36-year-old Zakirzhan Rozmetov was leading the Tarawih evening prayer in a mosque which was stripped of registration in the southern city of Shymkent. Shymkent's Justice Department had deregistered Abdulhamid Makhsum Mosque in July 2021.

The following day, a Religious Affairs Department official drew up a record of an offence against Rozmetov under Administrative Code Article 490, Part 1, Point 1 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for conducting religious rites, ceremonies and/or meetings"). The case was handed to Shymkent City Specialised Inter-District Administrative Court.

On 22 May, after the end of Ramadan, Judge Serik Niyazbek found Rozmetov guilty and fined him 50 MFIs (1 month's average wages), according to the decision seen by Forum 18. The Judge also banned the mosque's activity for three months, even though any exercise of freedom of religion or belief in the mosque is already illegal as it no longer has state registration (https://www.forum18.org/archive.php?article_id=2753).

The court decision notes that Rozmetov's leading of prayers "is contrary to the requirements of the legislation in the field of religion". It adds that he "does not work as an imam or teacher in the representative office and is not registered as a clergyman in the local executive bodies". The decision claims that he "admitted his guilt and repented".

The head of Shymkent Akimat's Religious Affairs Department (https://www.forum18.org/archive.php?article_id=2753), Alzhan Tuyakbayev, insisted that his officials had acted in accordance with the law. "Rozmetov broke the law – he had no basis for conducting a religious event," he told Forum 18 on 5 July. "He had the right to appeal if he felt that his rights had been violated, but he didn't do so."

Tuyakbayev said that the Justice Department had removed registration from Abdulhamid Makhsum Mosque in 2021 at the request of the state-controlled Muslim Board (https://www.forum18.org/archive.php?article_id=2753). "We have no right to interfere in the activity of the Muslim Board," he claimed.

The press secretary at Shymkent Justice Department did not answer the phone on 5 July.

Astana: Punished for prayer room in concert organisation offices

On 12 April, during the Muslim holy month of Ramadan, officials of Astana City Akimat's Religious Affairs Department (https://www.forum18.org/archive.php?article_id=2753) visited a prayer room with a notice declaring it a "namazkhana" in the main offices of Roza Baglanova Qazaqconcert state concert organisation in the capital Astana. The organisation is subject to the Culture and Sports Ministry. The prayer room was first identified by Inspector A. Basibekov of Astana Police's "Struggle with Extremism Department" (https://www.forum18.org/archive.php?article_id=2753).

Officials filmed the prayer room for use in the subsequent prosecution.

On 19 April, Turat Gabdrakhmanov, chief specialist at Shymkent Akimat's Religious Affairs Department, drew up a record of an offence against Qazaqconcert under Administrative Code Article 490, Part 1, Point 1 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for conducting religious rites, ceremonies and/or meetings"). The case was handed to Astana's Specialised Inter-District Administrative Court.

"At the court session, the representative of the organisation Zh. Orazbayeva fully confirmed the circumstances indicated in the record of an offence," the court decision notes, "confirmed that there is a prayer room in the organisation's building, that 3 to 4 of their employees (artists) pray five times a day, and that the room has stopped working." Orazbayeva told the court that, given the organisation's importance, the court should confine itself to a warning.

On 25 May, Judge Arailym Elamanova found Qazaqconcert guilty and fined it 140 MFIs, according to the decision seen by Forum 18. The fine on the organisation is the equivalent of six weeks' average wage for an individual. The Judge also banned the prayer room from operating for three months, even though any exercise of freedom of religion there is already illegal as it does not have the Akimat's permission.

Qazaqconcert's office is not on the list of 19 premises away from registered places of worship for which Astana City Akimat's Religious Affairs Department has granted permission to be used for religious rituals, according to the 28 March list. All belong to the state-controlled Muslim Board.

The 19 approved venues are at the Astana International Financial Centre, the city's airport, train station, shopping and entertainment centres and companies, although one appears to be in the premises of a Seventh-day Adventist Church. The list specifies the maximum number of worshippers allowed in each venue.

Saryagash: Punished for prayer room at bus station

On 12 April, during the Muslim holy month of Ramadan, District Police discovered that the 38-year-old Asylbek Sherbekov had converted a rented room at the bus station in the town of Saryagash in the southern Turkistan Region into a prayer room without the permission of the local Akimat (administration).

Police drew up a record of an offence against Sherbekov under Administrative Code Article 490, Part 1, Point 4 (https://www.forum18.org/archive.php?article_id=2753) ("Violating the requirements of the Religion Law for .. construction of religious buildings, and changing the profile (functional purpose) of a building into a religious building").

Police handed the case to Saryagash District Specialised Administrative Court. On 20 April, Judge Ainur Elshibayeva found Sherbekov guilty and fined him 35 MFIs (3 weeks' average wages). She also banned the prayer room for three months.

"The court considers the action of A.K. Sherbekov to be a deliberate administrative offence due to the fact that he was aware of the illegal nature of his action and consciously allowed it," the court decision seen by Forum 18 claims. "The fact that A.K. Sherbekov confessed to the charges against him and expressed regret for his actions is taken into account as mitigating circumstances for his administrative responsibility, and there are no aggravating circumstances."

The court decision also claims that Sherbekov approved of the enforced closure of the prayer room for three months as he "thinks that it is better to prevent the crime" of travellers praying there. (END)

More reports on freedom of thought, conscience and belief in Kazakhstan (<https://www.forum18.org/archive.php?country=29>)

For background information, see Forum 18's Kazakhstan freedom of religion or belief survey (https://www.forum18.org/archive.php?article_id=2753)

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

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