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KYRGYZSTAN: Six-month jail term for questioning official religious policy

By Mushfig Bayram, Forum 18 (<https://www.forum18.org>)

On 13 September, Protestant Aytbek Tynaliyev completed his six-month jail term. Arrested in May, a Chuy Region court convicted him in July for "inciting religious enmity" for social media posts sharing his faith and questioning the authorities' religious policy. Prosecutor Kaliya Rysbek kyzy refused to say how exactly Tynaliyev insulted Islam and why she called for a two-year jail term. The two Justice Ministry religious "experts", who supported the prosecution case in court, would not explain why they considered Tynaliyev's comments represented "disinformation about the religion of Islam".

For the second time, a court in the northern Chuy Region has convicted Protestant Aytbek Tynaliyev of "inciting religious enmity" for social media posts where he shared his faith and questioned the authorities' religious policy. In August 2022 he was fined. On 4 July 2023, the same court jailed him for just over six months. Taking account of his pre-trial detention, he was freed on 13 September at the end of his term.

In his July conviction, prosecutors focused on his posts on the Decree on regulating family ceremonies and commemorative rituals, signed by President Sadyr Japarov on 24 February 2022. Among the questions directed to the authorities, Tynaliyev asked: "Why is slaughtering animals for the living not beneficial or not recommended, while saying prayers from the Koran for the dead is beneficial?" (see below).

The two Justice Ministry religious "experts", who appeared in court to support the prosecution case, were unable to explain to Forum 18 why they considered Tynaliyev's comments represented "disinformation about the religion of Islam" (see below).

Judge Almazbek Jooshebekov of Moscow District Court refused to explain to Forum 18 why he jailed Tynaliyev (see below).

Prosecutor Kaliya Rysbek kyzy of Moscow District Prosecutor's Office, who represented the prosecution in court, declined to answer Forum 18's questions on why officials searched Tynaliyev's home, confiscated his Christian books, why he was arrested and imprisoned, what exact crime Tynaliyev committed and why she asked the Court for a two-year prison term for him (see below).

Just after his September release, District Police Investigator Kiyal Abdykulov, who had led a raid and search on his home in May, returned to warn Tynaliyev "to be careful and not post religious materials or statements on social media" (see below).

As he returned eight Christian books police seized from Tynaliyev in May, Investigator Abdykulov added that the "authorities could have opened another case against you for keeping religious literature at home illegally but decided not to". Keeping religious literature at home is not illegal (see below).

Investigator Abdykulov did not explain to Forum 18 why he warned Tynaliyev after his release from prison (see below).

Tynaliyev told Forum 18 that he is "afraid" and has stopped sharing his faith or questioning the authorities' official religious policy on social media (see below).

39 mosques, 21 religious schools closed

The National Security Committee (NSC) secret police informed the public in early August it closed 39 mosques and 21 religious schools in Osh Region for not having official registration. It gave no details.

The State Commission for Religious Affairs (https://www.forum18.org/archive.php?article_id=2711) (SCRA) in Bishkek continues to refuse state registration to Jehovah's Witness communities, especially in southern Kyrgyzstan. It "currently refrains from registering the local organisations of Jehovah's Witnesses in Osh, Batken and Jalal-Abad regions, because of the conflicts between the local people in those areas and Jehovah's Witness communities", the SCRA claimed in a 10 August response to Forum 18.

2022 prosecution, fine

Police opened a criminal case against Protestant Aytbek Tynaliyev in the town of Belovodskoe in the northern Chui Region and searched his flat in June 2022. The criminal case and house search followed a 7 June Justice Ministry "expert analysis" which found that three of his Facebook posts up to May 2022 were "extremist". They allegedly "discredited the honour of Muslims and spread a negative attitude to the public about Islam in general," and "damaged the reputation of President [Sadyr Japarov]" and other officials.

On 8 August 2022, Judge Emilbek Kaipov of Moscow District Court found Tynaliyev guilty under Criminal Code Article 330 (https://www.forum18.org/archive.php?article_id=2711) ("Incitement of racial, ethnic, national, religious or inter-regional enmity (discord)", Part 1, for the three social media posts. The Judge fined him 100,000 Soms (https://www.forum18.org/archive.php?article_id=2804), equivalent to about eight months' average wages.

May 2023 police house search, arrest

Aytbek Tynaliyev continued to post messages online. In Facebook posts between December 2022 and April 2023, he criticised the Decree on regulating family ceremonies and commemorative rituals, signed by President Sadyr Japarov on 24 February 2022. Among the questions directed to the authorities, Tynaliyev asked: "Why is slaughtering animals for the living not beneficial or not recommended, while saying prayers from the Koran for the dead is beneficial?"

Tynaliyev also posted messages on a Protestant Christian Instagram platform sharing his faith and thoughts on Christian beliefs.

Eight months after Aytbek Tynaliyev's first conviction and fine, some eight officers of Chuy Region's Moscow District Police came again to his home in the town of Belovodskoe on 20 May 2023. The officers were led by District Police Investigator Kiyal Abdykulov.

"They searched our flat and confiscated eight Christian books from me," Tynaliyev told Forum 18 on 24 October. "Then they took me to the District Police station, where I was questioned on why I kept criticising the authorities' religious policies and why I conducted religious propaganda." Police also confiscated his mobile phone.

Officers told Tynaliyev that a criminal case had been opened against him, and that he would remain in police custody until his trial. Moscow District Police held him from 20 May until early June, when they transferred him to Investigation Prison No. 1 in the capital Bishkek.

Investigator Abdykulov was reluctant to talk about the case. "We are not against his religion but I cannot discuss the case with you," he told Forum 18 from Chuy Region on 24 October. When Forum 18 insisted, asking why Tynaliyev was imprisoned for criticising official religious policy and for practicing his faith and sharing it on social media, Abdykulov replied: "Please, write a letter to the Interior Ministry." He then declined to talk.

"Religious enmity" charges

Prosecutors deemed Tynaliyev's messages and statements on social media as "discrediting Islam" and "sowing inter-religious discord", according to the subsequent court decision.

Prosecutors brought charges against Tynaliyev under Criminal Code Article 330 (https://www.forum18.org/archive.php?article_id=2711) ("Incitement of racial, ethnic, national, religious or inter-regional enmity (discord)", Part 1, which carries a maximum five-year jail term. The case was then handed to Moscow District Court of Chuy Region, based in the town of Belovodskoe. The case was assigned to Judge Almazbek Jooshebekov.

Trial, six-month jail term

At the first hearing in Aytbek Tynaliyev's trial at Moscow District Court in Belovodskoe on 20 June, Judge Almazbek Jooshebekov postponed the case as the religious "experts" were unable to be present.

At the second hearing on 4 July, Judge Jooshebekov found Tynaliyev guilty under Criminal Code Article 330 (https://www.forum18.org/archive.php?article_id=2711) ("Incitement of racial, ethnic, national, religious or inter-regional enmity (discord)", Part 1. He handed him a general regime prison term of six months and seven days, according to the verdict seen by Forum 18. Judge Jooshebekov also ordered the confiscation of Tynaliyev's mobile phone for the benefit of the state, which had been seized from him as evidence on the day of his arrest.

Prosecutor Kaliya Rysbek kyzy of Moscow District Prosecutor's Office, who represented the prosecution in court, had sought a two-year jail term for Tynaliyev.

Prosecutor Rysbek kyzy declined to answer Forum 18's questions on 24 October why officials searched Tynaliyev's home, confiscated his Christian books, why he was arrested and imprisoned, what exact crime Tynaliyev committed and why she asked the Court for a two-year prison term for him.

"Where do you get this information?" Rysbek kyzy asked. "I am busy and cannot talk to you at the moment. Please call back in half an hour, and I will answer your questions." Called back, the Prosecutor's Office refused to put Forum 18 through to Rysbek kyzy or other officials. "They are all busy," the official, who did not give his name, claimed.

Judge Jooshebekov also refused to talk to Forum 18 about the case. Bekbolot Erkeshov, his Assistant, took down Forum 18's questions on 24 October as to why Tynaliyev was imprisoned simply for sharing his faith on social media and questioning the 2022 Presidential Decree. After talking with the Judge, Erkeshov asked Forum 18 to call back the next day. Called back on 25 October, Erkeshov once again asked Forum 18 to call back the next day since "the Judge is busy".

(The Council of Judges' Disciplinary Commission reprimanded Judge Jooshebekov on 6 March 2020 (<https://www.koom.kg/index.php?act=material&id=5160>) when he was a judge in Bishkek for misrepresenting the position of a defendant in his written verdict.)

Kanatbek Midin uuly, Deputy Chair of the SCRA, refused to comment on Tynaliyev's imprisonment to Forum 18 on 26 October.

"I was afraid that they could give me more prison time"

After consulting with his family, Tynaliyev decided not to file an appeal against his prison sentence. "We were afraid to appeal, especially since the Prosecutor was asking for two years' imprisonment," Tynaliyev told Forum 18. "Last year they fined me and were threatening me that the next time they would give me a prison term. And they gave me a prison term. I was afraid that they could give more prison time if I appeal."

"When I asked what was wrong with my Christian messages, the experts did not answer"

Two religious "experts" of the Justice Ministry, Jydegul Semenova and Medina Tokonova, participated in the trial on 4 July to support the prosecution case. They told the court that Tynaliyev's questions on his Facebook account about the slaughtering of cows or lambs during religious ceremonies is "disinformation about the religion of Islam". They claimed that, by posting such information, he "discredited the religion of Islam".

Among the questions directed to the authorities on his Facebook account Tynaliyev asked, "Why is slaughtering animals for the living not beneficial or not recommended, while saying prayers from the Koran for the dead is beneficial?"

The Court particularly brought out this question during the trial, as detailed in the verdict. None of Tynaliyev's other questions or Christian messages are mentioned in the decision.

"I was critical of the 2022 Presidential Decree where slaughtering of many cows and lambs during funerals or other religious ceremonies was not recommended," Tynaliyev explained to Forum 18. "And therefore knowing that in Islam they pray for the dead from the Koran, and wondering why those who come to the funeral can pray for the dead person but the authorities think that it is not normal to eat a good meal at the funeral, I asked the question. Why must the authorities regulate our faith, our traditions?"

The religious "experts" also claimed in court that Tynaliyev published religious materials on his social media accounts which "sow discord between religions". They produced to the court 39 pages, screenshots from Tynaliyev's Facebook account and from mashayakchi.kg, a Protestant group account on Instagram.

Tynaliyev told Forum 18 that nine of those screenshots were his questions directed at the authorities and were related to the Presidential Decree recommending not to waste money on slaughtering many cattle during traditional events and religious ceremonies. "The 30 other screenshots were from the mashayakchi.kg Instagram platform, and were my Christian messages."

Tynaliyev added: "When I asked in court what was wrong with my Christian messages in those screenshots, the experts did not answer."

Asked by Forum 18 on 24 October why she deemed Tynaliyev's question on regulating the slaughter of animals as discrediting Islam, the religious "expert" Semenova could not answer. Asked which of Tynaliyev's messages on the Instagram account sowed religious discord, she claimed: "I do not remember at the moment. Please call me back on Monday (six days later), I will be able to tell you."

"Expert" Tokonova was adamant that Tynaliyev "violated the Law". Asked by Forum 18 on 25 October what exactly in his one question cited in the court decision constituted discrediting Islam and what exactly constituted sowing of religious discord in his post on the Protestant Instagram platform, Tokonova refused to explain. "I gave my opinion in the court. I am not going to tell you now."

Told that the court decision states that she considered his questions on Facebook and messages on Instagram "extremist" but does not specify what exactly Tynaliyev's crime is, and asked what exactly discredits Islam in his question "Why is slaughtering animals for the living not beneficial or not recommended, while saying prayers from the Koran for the dead is beneficial?", Tokonova replied: "I am not going to talk to you. Write an official letter to the Ministry."

Tokonova also refused to tell Forum 18 why Tynaliyev's messages on the Protestant Instagram platform were included in his case file as evidence of "sowing religious discord".

Warned again after release from prison

On 20 August, once the Court decision entered into force, Tynaliyev was transferred from prison in Bishkek to Prison No. 8 in Petrovka in Chuy Region. The Court decision indicates that one day of time in Police detention is equivalent to two days in prison, so he completed his term on 13 September. He was released from prison that day at the end of his sentence.

Tynaliyev is not subject to any post-prison restrictions, he told Forum 18. Nor have his bank accounts been blocked.

After his release from prison, District Police Investigator Kiyal Abdykulov visited Tynaliyev in his home in Belovodskoe and told him that the "authorities could have opened another case against you for keeping religious literature at home illegally but decided not to". Abdykulov warned him "to be careful and not post religious materials or statements on social media".

Investigator Abdykulov as a "gesture of good will" returned Tynaliyev's Christian books seized from his home.

Keeping religious literature at home is not illegal, Forum 18 notes.

Investigator Abdykulov did not explain to Forum 18 why he warned Tynaliyev after his release from prison.

Tynaliyev told Forum 18 that he is "afraid" and has stopped sharing his faith or questioning the authorities' official religious policy on social media.

Decree – first step to adopting law?

Zamir Jooshov, a Bishkek-based lawyer, told Forum 18 that the authorities "tried in the past to adopt a Law regulating traditions and religious ceremonies, as in other Central Asian states, but ended up not adopting such a Law. However, in 2022 the President issued the Decree where he does not recommend lavish ceremonies and slaughtering of many cattle animals during religious and other ceremonies, considering it wasteful."

Jooshov commented that "I have not heard of any punishments for violating the principles of this Decree across Kyrgyzstan. People go on slaughtering cattle for their weddings and religious ceremonies as they did in the past without any hesitation. This Decree is probably a first step to adopting a Law, but no steps are being taken in this direction at the moment."

Kanatbek Midin uuly, Deputy Chair of the SCRA, confirmed to Forum 18 from Bishkek on 26 October that a Law regulating traditions and ceremonies was "not adopted". But he declined to discuss whether such a Law is on the government's agenda in the near future. "I am busy now," he claimed and asked it to call back in two hours. He did not answer his phones when called back. (END)

More reports on freedom of thought, conscience and belief in Kyrgyzstan (<https://www.forum18.org/Archive.php?country=30>)

For background information, see Forum 18's Kyrgyzstan religious freedom survey (https://www.forum18.org/archive.php?article_id=2711)

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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f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY