

4 April 2024

KAZAKHSTAN: 203 known administrative prosecutions in 2023

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

A third of the 203 known administrative prosecutions in 2023 for exercising freedom of religion or belief punished individuals for religious posts on social media without state permission. Nearly a quarter were punished for offering religious literature for sale - in shops or online - without state permission. One individual and one charity were prosecuted for having religious books, although this is not an offence. The Information and Social Development Ministry (of which the Religious Affairs Committee is a part) claimed wrongly that there were only 139 such cases in 2023.

The regime is known to have brought at least 203 administrative prosecutions in 2023 - an average of 17 per month - to punish individuals and organisations for their exercise of freedom of religion or belief. This is the highest level of prosecution since 2017. Of these, 172 ended with convictions and punishments. Almost all of the punishments included fines of between several days' and several months' average wages. Administrative prosecutions have continued in 2024.

A third of the 2023 cases were (as in previous years) to punish individuals for posting religious messages, texts and recordings on their social media accounts without state permission (see below).

The next biggest set of cases (as in previous years), nearly a quarter of the 2023 total, punished individuals for offering religious literature for sale without state permission, either in shops or online (see below).

For the second year running, prosecutions were brought for having religious books, although this is not an offence. One charity was acquitted, but an individual was fined (see below).

In one case, a religious picture seized from an individual offering it for sale online was ordered destroyed. Unlike in previous years, courts in 2023 are not known to have ordered religious literature to be destroyed (see below).

The 203 known administrative cases in 2023 (https://www.forum18.org/archive.php?article_id=2901) show an increase from 2022 in the number of prosecutions. However, the true number of such administrative cases is likely to be higher.

The 203 known administrative prosecutions for exercising freedom of religion and belief in the 2023 calendar year (https://www.forum18.org/archive.php?article_id=2901) compare with:

- 144 in 2022 (https://www.forum18.org/archive.php?article_id=2821);
- 130 in 2021 (https://www.forum18.org/archive.php?article_id=2715);
- 134 in 2020 (https://www.forum18.org/archive.php?article_id=2634);
- 168 in 2019 (https://www.forum18.org/archive.php?article_id=2532);
- 171 in 2018 (https://www.forum18.org/archive.php?article_id=2447);
- and 284 in 2017 (https://www.forum18.org/archive.php?article_id=2347).

Punishments in 2023 (https://www.forum18.org/archive.php?article_id=2901) included temporary bans on specified or unspecified activity, verbal reprimands, and fines for among other things posting religious materials online, selling Bibles, Korans, and icons online, as well as teaching children to read the Koran without state permission, trying to import religious books, and saying the word Amen in mosques – and even having religious books, although this is not an offence. One foreign citizen was ordered deported. In one case, a religious picture was ordered destroyed. Unlike in previous years, courts in 2023 are not known to have ordered religious literature to be destroyed (see full list of known 2023 cases (https://www.forum18.org/archive.php?article_id=2901)).

Commercial and private sellers, as well as Muslims, Jehovah's Witnesses and Protestants, were among the individuals targeted in

these prosecutions. Also targeted were business and charities.

Fines were mostly the equivalent of between three weeks' and four months' average wages for those in formal work (35 to 200 Monthly Financial Indicators, MFIs, 120,750 Tenge to 690,000 Tenge in the 2023 calendar year).

The Information and Social Development Ministry (of which the Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2753) is a part) claimed that there had been 139 cases under Administrative Code Article 490 in 2023, according to Kazinform news agency on 12 January. It is unclear why the Ministry claimed there were fewer cases than the 203 known cases brought in 2023 to punish the exercise of freedom of religion or belief.

Forum 18 tried to find out from the regime's Human Rights Commissioner Artur Lastayev why individuals and organisations are punished for exercising freedom of religion or belief. Forum 18 asked in writing before the start of the working day of 26 March (and re-sent on 3 April) why people are fined for religious meetings, selling or importing religious books, posting religious materials on social media, praying in mosques with the word Amen. Forum 18 asked why courts give orders to confiscate and/or destroy religious books and order deportation for foreign nationals if they speak about their faith.

Forum 18 also asked how many appeals regarding such administrative punishments were there to the office of the Human Rights Commissioner in 2023, what the Commissioner does to protect the right of individuals to freedom of religion or belief and what recommendations he gave (if any) to the government to remove provisions in the Administrative Code specifying punishment for those who exercise their right to freedom of religion or belief.

Forum 18 received no response from the Human Rights Commissioner's office by the end of the working day in Astana of 4 April. (The Global Alliance of National Human Rights Institutions gives the Human Rights Commissioner's office B status as it is not independent of the regime.)

No one was available at the regime's Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2753) in the capital Astana to explain to Forum 18 why individuals and organisations continue to be punished for exercising freedom of religion or belief. Yerzhan Nukezhanov, chair of the Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2753), did not answer his phone. A Deputy Chair Bauyrzhan Bakirov told Forum 18 that the subject of administrative prosecutions was not within his remit. He referred all questions to the other Deputy Chair, Anuar Khatiyev. Khatiyev did not answer his phone (see below).

Beimbet Manetov, head of the Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2753)'s Department of Law Enforcement Practice in the Field of Religious Activities, also did not answer his phone. He had insisted to Forum 18 in February 2022 that individuals had to be fined if they break the law. Asked why courts punish individuals for exercising freedom of religion or belief, he responded: "I can't comment on court decisions" (see below).

Proposed amendments to the Administrative Code which would introduce the possibility of a warning as well as a fine and would halve the level of fines under a few Parts of Article 490 ("Violating the Religion Law") were presented to the lower house of the non-freely-elected Parliament, the Mazhilis, in July 2023. However, they have not been considered so far (see below).

Police "Struggle with Extremism and Terrorism Departments" hunt "offenders"

In 2023 (https://www.forum18.org/archive.php?article_id=2901), police "Struggle with Extremism and Terrorism Departments" (https://www.forum18.org/archive.php?article_id=2753) are recorded in 18 court decisions (compared with 22 in 2022) as discovering that individuals have committed an "offence", though they may have been involved in more without this being noted in court decisions.

The regime's censorship of religious literature and objects (https://www.forum18.org/archive.php?article_id=2753) restricts both what can be sold or offered, and where it can be sold or offered.

"Illegal" online sales

At least 7 individuals are known to have been prosecuted in 2023 (https://www.forum18.org/archive.php?article_id=2901) for offering religious books or materials for sale online. This represents a fall in the number of such cases from previous years, during which there were:

- (9 in 2022 (https://www.forum18.org/archive.php?article_id=2821);
- 18 in 2021 (https://www.forum18.org/archive.php?article_id=2715);
- 29 in 2020 (https://www.forum18.org/archive.php?article_id=2634);

- 24 in 2019 (https://www.forum18.org/archive.php?article_id=2532);
- 18 in 2018 (https://www.forum18.org/archive.php?article_id=2447);
- and 10 in 2017 (https://www.forum18.org/archive.php?article_id=2347).

Many were punished for offering such materials for sale on the online shopping site Olx.kz.

Among the items Olx.kz lists on the help section of its website as being illegal to sell are "Religious literature, other informational materials of religious content and items of religious significance". The website appears to have added this information in late 2020, after a number of prosecutions that year (https://www.forum18.org/archive.php?article_id=2558).

Many court decisions punishing individuals for offering religious books or items for sale on Olx.kz or Instagram note that such a platform is "a place not associated with a special stationary premises for distribution of religious literature in accord with a decree of the Akimat [Administration]."

"To restore social justice"?

The March 2023 court decision in the case of Bakhytkul Kosmambetova in Baikonur, who sold without state permission two Islamic books and offered for sale three more in a shop (https://www.forum18.org/archive.php?article_id=2901), outlines the regime's excuses for punishing people for exercising freedom of religion or belief without state permission.

The decision (echoing the wording of 3 other such decisions in 2023) noted that "the court took into account her identity, property situation, and in order to restore social justice, to educate her in the spirit of compliance with the requirements of laws and respect for law and order, as well as to prevent her from committing a new offence".

Destroying religious materials

Police and other officials often seize religious books and materials when they initiate administrative cases involving religious literature and items. Some court decisions note that the literature and items are to be returned once any fine is paid. Other court decisions do not say what would happen to the seized books. In many cases, courts order seized religious literature to be returned.

In one case in 2023 (https://www.forum18.org/archive.php?article_id=2901), a religious picture being offered for sale online was ordered destroyed. Unlike in previous years, courts in 2023 are not known to have ordered religious literature to be destroyed.

In two known cases in 2022, courts ordered religious literature to be destroyed. Although Karaganda Inter-District Specialised Administrative Court closed the case on 31 May 2022 against Ruslan Aliyev, the Judge ordered one copy of the Muslim book "Gardens of the Righteous" by thirteenth-century scholar Imam al-Nawawi seized during a house search to be destroyed. The Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2753) "expert" analysis said it was banned in Kazakhstan.

Similarly, on 12 September 2022 Aktau Specialised Administrative Court ordered three Islamic books – including one on how to pray the namaz - seized from commercial seller Dilora Adilova to be destroyed. She had been offering them for sale in a shop without state permission.

In three known cases in 2020, courts ordered seized religious books to be destroyed (https://www.forum18.org/archive.php?article_id=2634). In 2019, such court orders to destroy seized religious literature were more common. In one case in Kyzylorda, 29 Muslim books seized from a commercial seller (https://www.forum18.org/archive.php?article_id=2488) were ordered destroyed.

Human rights defender Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law described court-ordered book destruction to Forum 18 (https://www.forum18.org/archive.php?article_id=2442) in 2015 as "barbarism".

Targeting ethnic Dungan Koran teachers

Two Muslims from the Dungan ethnic minority, in Kordai District of the southern Zhambyl Region, who taught the Koran and Islam to local children were among the 12 individuals known to have been prosecuted in 2023 for teaching their faith without state permission (https://www.forum18.org/archive.php?article_id=2901).

The prosecution of the two brings to 15 the number of ethnic Dungan Muslims from Kordai District who have since 2018 been punished under Administrative Code Article 490, Part 3, for teaching children to read the Koran without state permission (https://www.forum18.org/archive.php?article_id=2652).

Maksat Erezhepov, then-head of Kordai District Police, claimed to Forum 18 in April 2021 (https://www.forum18.org/archive.php?article_id=2652) that there was no "ethnic factor" in the proportionately unusually high prosecutions of Dungans relative to other people groups.

The current head of Kordai District Police, Alimkhan Karymsakov, refused to say why ethnic Dungan Koran teachers continued to be punished in 2023, and whether there was any "ethnic factor" in the prosecutions. "I won't answer any questions by phone," he told Forum 18 on 3 April 2024 and put the phone down.

Punishments

Fines are the most common punishment, with fines for individuals mostly being between three weeks' and two months' average wages. For pensioners and those without formal work, such fines can be a heavy burden. Individuals who are punished for offering religious materials for sale online often tell the courts that they are desperately short of money and are trying to sell any property they no longer need. This does not stop judges from fining them.

In addition to fines, courts often ban individuals from activity for three months. Sometimes the ban is unspecific, leaving individuals unclear about what they can and cannot do. In other cases courts ban specific activities, for example distributing religious materials (which is in any case illegal without state permission). The hardest-hitting bans are on those running shops, as a three-month ban leaves owners and employees with no income from the shop.

Those who refuse or fail to pay fines can be placed on the list of debtors who are banned from leaving the country (https://www.forum18.org/archive.php?article_id=2574). Council of Churches Baptists refuse to pay fines on principle, as under international human rights law they should not be punished for exercising their right to freedom of religion or belief without state permission (https://www.forum18.org/archive.php?article_id=2753). Many spent years on the exit ban list (see below).

Case never presented to court

On three occasions in July and August 2023, police, the National Security Committee (NSC) secret police (https://www.forum18.org/archive.php?article_id=2753), and Akimat (administration) officials visited the Council of Churches Baptist congregation in Temirtau in Karaganda Region as it was meeting for worship. Like all Council of Churches congregations, it chooses not to seek state permission to meet for worship.

"The officials became angry, began filming, and demanded that the church members register the church with the Justice Department," church members noted on 3 September 2023.

On 31 August 2023, an anti-extremism official, who did not give his name but was possibly from the Akimat, came to the home where the church meets. He called the police and the NSC secret police (https://www.forum18.org/archive.php?article_id=2753). Local police officer Marat Rymbekov then drew up a record of an offence under Administrative Code Article 490, Part 1 against the church's pastor, Dmitry Yantsen. He was accused of leading the meeting for worship on the previous Sunday, 27 August 2023.

"The most surprising thing was that Dmitry Yantsen was travelling and on that day was 500 kilometres [300 miles] away from the town," church members noted.

"Church members prayed and sent in appeals about the case," Yantsen told Forum 18 from Temirtau on 27 March 2024. "Officials never presented the case to court. I rang the police to ask when the case would reach court. They told me they didn't know and that the leadership would take the decision. It seems they decided not to proceed, but never explained the reason to me." The deadline for officials to file the case has now expired.

Intimidation

In addition to the administrative cases actually brought, police and prosecutors often use the threat of such cases to intimidate individuals who have been exercising their right to freedom of religion or belief.

Jehovah's Witnesses noted in late 2022 that 25 had been warned over alleged violation of Administrative Code Article 490 by engaging in "illegal missionary activity". "The authorities required them and seven other Witnesses to write statements explaining why they sent letters or made phone calls as part of their evangelizing work and pressured them to discontinue the practice," Jehovah's Witnesses said.

Known 2023 cases

There were 203 known administrative cases for exercising freedom of religion and belief in the 2023 calendar year (https://www.forum18.org/archive.php?article_id=2901):

- 25 (20 individuals, 4 companies, and 1 charity) for meeting for worship without state permission, hosting such meetings, or maintaining places for such meetings (https://www.forum18.org/archive.php?article_id=2901) (26 in 2022, 30 in 2021, 19 in 2020, 37 in 2019, 40 in 2018, 88 in 2017).

- 4 individuals for offering religious materials to others for free without state permission (https://www.forum18.org/archive.php?article_id=2901) (1 in 2022, 3 in 2021, 4 in 2020, 15 in 2019, 10 in 2018, 39 in 2017).

- 2 (1 individual and 1 charity) for having religious literature (https://www.forum18.org/archive.php?article_id=2901) (2 in 2022, 0 in 2021, 0 in 2020, 0 in 2019, 0 in 2018, 0 in 2017).

- 41 individuals for offering religious literature or other items for sale without state permission (https://www.forum18.org/archive.php?article_id=2901) (31 in 2022, 18 in 2021, 26 in 2020, 30 in 2019, 34 in 2018, 58 in 2017).

- 7 individuals for online offering religious literature or other items for sale online without state permission (https://www.forum18.org/archive.php?article_id=2901) (9 in 2022, 18 in 2021, 29 in 2020, 24 in 2019, 18 in 2018, 10 in 2017).

- 67 individuals for posting religious materials online without state permission (https://www.forum18.org/archive.php?article_id=2901) (54 in 2022, 40 in 2021, 28 in 2020, 33 in 2019, 23 in 2018, 12 in 2017).

- 7 individuals for trying to import religious literature without state permission (https://www.forum18.org/archive.php?article_id=2901) (6 in 2022, 0 in 2021, 1 in 2020, 4 in 2019, 0 in 2018, 4 in 2017).

- 24 individuals for sharing faith with others without state permission (https://www.forum18.org/archive.php?article_id=2901) (3 in 2022, 3 in 2021, 10 in 2020, 8 in 2019, 17 in 2018, 31 in 2017).

- 13 Muslims for praying in mosques (https://www.forum18.org/archive.php?article_id=2901) in ways that the state-controlled Muslim Board has banned, for example by using the word "Amen" (https://www.forum18.org/archive.php?article_id=2753) (3 in 2022, 12 in 2021, 9 (one twice) in 2020, 9 in 2019, 21 in 2018, 22 in 2017, the first year such punishments were imposed).

- 12 (10 individuals and 2 charities) for teaching their faith to children without state permission (https://www.forum18.org/archive.php?article_id=2901) (8 in 2022, 6 in 2021, 7 in 2020, 4 in 2019, 3 in 2018, 2 in 2017).

- 1 individual for allowing children to be present or conducting religious rites against the wishes of one parent (https://www.forum18.org/archive.php?article_id=2901) (0 in 2022, 0 in 2021, 0 in 2020, 1 in 2019, 1 in 2018, 9 in 2017).

Almost all the 203 known 2023 cases (https://www.forum18.org/archive.php?article_id=2901) were heard in court. A total of 12 fines or warnings are known to have been summarily handed down by police (https://www.forum18.org/archive.php?article_id=2715) in 2023 (0 in 2022, 2 in 2021, 3 in 2020, 20 in 2019).

No individuals are known to have been prosecuted in 2023 for trying to build a place of worship without state permission (1 in 2022, 0 in 2021, 0 in 2020, 0 in 2019, 0 in 2018, 0 in 2017).

No religious communities are known to have been prosecuted in 2023 for "inadequate" security or security measures for their places of worship, for example not having enough video cameras (0 in 2022, 0 in 2021, 0 in 2020, 2 in 2019, 2 in 2018, 5 in 2017).

No individuals are known to have been prosecuted in 2023 for failing to pay earlier fines to punish them for exercising the right to freedom of religion or belief without state permission (0 in 2022, 0 in 2021, 0 in 2020, 0 in 2019, 2 in 2018, 2 in 2017).

One foreign citizen is known to have been ordered deported in 2023 (2 in 2022, 0 in 2021, 0 in 2020, 0 in 2019, 1 in 2018, 2 in 2017).

Exit bans for earlier fines being lifted

When individuals fail or refuse to pay fines, their cases are handed to court bailiffs to recover the money. They can order funds to be deducted from wages, seize property in lieu, and ban individuals from leaving the country until a fine is paid. Those who refuse to pay repeated fines can remain on the exit ban list for many years.

Council of Churches Baptists refuse to seek state permission to exercise freedom of religion or belief (as is their right under international human rights commitments). They also refuse to pay fines handed down to punish them for exercising freedom of religion or belief.

Council of Churches Baptists who have refused to pay earlier fines for exercising freedom of religion or belief remained for years on the Justice Ministry list of debtors and were banned from leaving the country

(https://www.forum18.org/archive.php?article_id=2715). However, the records of several Baptists fined in earlier years who still have outstanding fines to pay off (such as Vladimir Nelepin and Sergei Krasnov, both from Oral, and Denis Yenenko from North Kazakhstan Region) are listed as not banned from leaving the country.

Nikolai Novikov from Oral told Forum 18 on 3 April that the ban on travelling abroad imposed on him in 2010 because of unpaid fines had been lifted in summer 2023. Courts have repeatedly fined him over many years for exercising freedom of religion or belief. (His most recent fine was in January 2021 for offering religious literature for free on the streets (https://www.forum18.org/archive.php?article_id=2634).) He said the ban had been lifted after the last court-ordered deduction from his wages to pay off the fines.

"I can't comment on court decisions"

Forum 18 tried to find out from the regime's Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2753) (part of the Information and Social Development Ministry in the capital Astana) why individuals and organisations continue to be punished for exercising freedom of religion or belief (https://www.forum18.org/archive.php?article_id=2901).

The telephone of Religious Affairs Committee (https://www.forum18.org/archive.php?article_id=2753) Chair Yerzhan Nukezhanov went unanswered each time Forum 18 called on 3 and 4 April. On 3 April, a Deputy Chair Bauyrzhan Bakirov told Forum 18 that the subject of administrative prosecutions was not within his remit. He referred all questions to the other Deputy Chair, Anuar Khatiyev. Khatiyev did not answer his phone on 3 or 4 April.

Beimbet Manetov, head of the Committee's Department of Law Enforcement Practice in the Field of Religious Activities, did not answer his phone on 3 or 4 April.

Asked in February 2022 about such administrative fines in 2021, Manetov insisted to Forum 18 that individuals had to be fined if they break the law (https://www.forum18.org/archive.php?article_id=2715). Asked why courts punish individuals for exercising freedom of religion or belief, he responded: "I can't comment on court decisions."

Cases continue in 2024

Police at Turkistan Airport seized a total of 99 religious books from five residents of the southern Turkistan Region who had arrived on a flight from Istanbul. A court then fined each of the men 50 MFIs under Administrative Code Article 490, Part 1 for trying to bring in religious literature which had not undergone state censorship, the Interior Ministry's Polisia.kz website noted on 31 January.

Azet Serikbayev, the spokesperson for the courts in Turkistan Region, told Forum 18 on 27 March 2024 that "I can't provide information on cases to third parties who have no relationship to the case".

Police at Turksib station in the southern Zhambyl Region inspected the train travelling from the Kyrgyz capital Bishkek to the Russian city of Samara where it crosses into Kazakhstan. They seized religious literature from a Kyrgyz passenger. A local court then fined the 19-year-old woman 70 MFIs under Administrative Code Article 490, Part 1 for trying to bring in religious literature which had not undergone state censorship, the Interior Ministry's Polisia.kz website noted on 20 February.

Will some of the fines be reduced?

The Religious Affairs Committee completed work on draft amendments to Administrative Code Article 490 ("Violating the Religion Law") in 2022. The proposed amendments were incorporated in a general set of amendments to the Administrative Code and sent to the lower house of the non-freely-elected Parliament, the Mazhilis. It recorded their arrival on 11 July 2023 and published the text on its website. The Mazhilis has not begun consideration of the amendments.

The long-promised amendments would introduce - as an alternative to a fine - the possibility of a warning under Parts 1 and (for Kazakh citizens) 3 and 7 of Article 490. They would also halve the level of the fines under Parts 1, 2 and 3 of the Article.

Asked in February 2022 (https://www.forum18.org/archive.php?article_id=2715) why Administrative Code Article 490 was not being completely abolished, Beimbet Manetov, head of the Department of Law Enforcement Practice in the Field of Religious Activities at the regime's Religious Affairs Committee, declined to say. "These are very good amendments and a liberalisation which all support," he claimed. (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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