

30 May 2005

KAZAKHSTAN: Officials enforcing Religion Law before it is passed

By Igor Rotar, Forum 18

The harsh new Religion Law has not yet been passed, but the authorities are already behaving as if it is law Forum 18 News Service has found. Religious communities do not yet need state registration – a requirement imposed by the new Law. But a Protestant church in the Caspian Sea port of Atyrau is the latest religious community to be attacked because it does not have registration. Diyaz Sultanov, the Prosecutor's assistant, told Forum 18 that "it is impermissible for a church to operate without registration." Another proposal put forward – but then apparently withdrawn - allowed religious communities to be closed without a court hearing. New Life Protestant Church, close to Almaty, has been "banned" by local administration chief Raspek Tolbayev, who told Forum 18 that "I will take the decision whether or not to open the church." Parliamentary deputies Forum 18 has spoken to described the new law as a weapon against the "ideological diversity" of the West.

Although the new religion law now in the upper house of the Kazakh parliament has not yet been adopted, officials are already behaving as though its harsh restrictions on religious activity are already in force, local Protestants have complained to Forum 18 News Service.

Nurlubek Zhalgasbayev, pastor of a Kazakh-language Protestant church in the Caspian Sea port of Atyrau [Atyraü] in north-western Kazakhstan, is facing administrative punishment for leading a church without state registration. Religious communities do not under current legislation need state registration to be allowed to operate – but the new law if passed would impose this requirement.

"At the police station, Zhalgasbayev admitted in a written statement that he had engaged in preaching," Diyaz Sultanov, assistant to the town prosecutor, told Forum 18 from Atyrau on 25 May. "We are only interested in ensuring that there are as many churches of different traditions in the region as possible. But first of all, a church must be registered. No-one intends to punish Zhalgasbayev severely, rather the court will limit itself to a verbal warning, to the effect that it is impermissible for a church to operate without registration."

"Even if Zhalgasbayev is 'let off' with just a warning, we should still not put up with it," Aleksandr Klyushev, head of the Association of Religious Organisations, told Forum 18 from the capital Astana on 26 May. "The central issue is that a person who has not broken the law is being presented as a law-breaker."

Atyrau police questioned members of Zhalgasbayev's church for several hours on 12 May, taking fingerprints and asking detailed questions about the church's activity. "Straight after the interrogation, the Atyrau public prosecutor's office brought an administrative case against me," Pastor Zhalgasbayev told Forum 18 on 25 May from Atyrau. He is charged under Article 375 of the administrative code, which is often used to punish the leaders of unregistered congregations, as it punishes "refusal to register" a church. But Kazakh lawyers such as religious law specialist Roman Podoprighora have told Forum 18 that in law "it is virtually impossible to show that believers really do refuse to register" (see F18News 20 July 2004 http://www.forum18.org/Archive.php?article_id=365).

Zhalgasbayev maintains that the charges under article 375 were launched after claims that he had preached in one of the region's districts on 4 May. However, he insists he has never even been to that district. Zhalgasbayev told Forum 18 that the church has prepared all the documents required for registration and that church members intend to submit them to the regional justice administration within days. However, he now fears that the church will be refused registration, as he will be accused of being a "law-breaker".

Close to the country's commercial capital Almaty, a local administration chief has "banned" a Protestant church apparently because its leaders failed to show him what he thought was due respect. On 19 April the akim (head of administration) of Kamenka region, Raspek Tolbayev, dispersed a meeting of the New Life Protestant Church in the village of Kamenka on the outskirts of Almaty, the church's pastor, Pavel Gryaznov, told Forum 18 from the city on 25 May. Tolbayev then ordered the church's closure. Pastor Gryaznov maintains that, after arriving at the church meeting, Tolbayev started swearing unrestrainedly and forced parishioners to leave the premises.

Gryaznov pointed out that the church has been working in Kamenka since 2000 and is registered at the justice ministry, "so we are operating on a legal basis". One of the changes to the religion law that was proposed – but then apparently withdrawn – was a

proposal giving public prosecutors the right to close down religious organisations before a court ruling.

Pastor Gryaznov noted that the church had enjoyed an excellent relationship with the previous akim. "But – as you can see – Tolbayev was not pleased that we did not come and introduce ourselves to him," the pastor told Forum 18. "Basically he behaves like a medieval khan, displeased because his servants have not come and bowed to him." He insisted that Tolbayev does not have the authority to close a church. "So we have ignored his order. But he behaves like an autocratic landlord in this area and we don't know what will enter his head next."

Tolbayev denied that he had closed the church, maintaining he had "just put a halt to the church's operations". "I'm not interested in whether the Protestants have registration or not," Tolbayev told Forum 18 on 26 May. "I am the district akim, and they have to come to me and introduce themselves. Various people are telephoning me about this, but I will take the decision whether or not to open the church only after I have conducted an investigation." Tolbayev's order to close the church would not be legal even if the latest draft of the religion law was passed.

Among other recent moves, teachers north of the capital Astana have pressured children and parents who regularly attend Protestant services, following the national Education Ministry's persistent attempts to stop under-8s going to church (see F18News 27 May 2005 http://www.forum18.org/Archive.php?article_id=571).

Aleksandr Klyushev, of the Association of Religious Organisations of Kazakhstan, believes that attacks on Protestants have escalated markedly as the draft religion law makes its way through the Kazakh Parliament (see F18News 13 May 2005 http://www.forum18.org/Archive.php?article_id=561). "The problem is that although the draft law has not yet been passed, local authorities regard it as already being in force," maintains Klyushev.

Klyushev told Forum 18 he expects these "national security" amendments to be considered by a Senate working group on 2 June, by the Senate legislative committee the following day, and by the full Parliament on 11 and 16 June.

The draft law substantially limits believers' rights. Article 4 of the draft amended religion law has a new sixth section that forbids the activity of unregistered religious organisations. Kazakhstan would thus join Uzbekistan, Turkmenistan and Belarus in banning unregistered religious organisations, in defiance of international human rights commitments.

The draft law also introduces amendments to both the administrative and the criminal legal codes. Newly-introduced Article 374-1 of the administrative code – "Leadership and participation in the activity of public and religious associations that have not been registered in accordance with the law, as well as financing their activity" – punishes participation in the activity of an unregistered religious organisation with a fine of 50 times the monthly wage (the monthly wage is equivalent to 47 Norwegian Kroner, 6 Euros or 7 US dollars), while the fine for leading an unregistered religious community is 100 times the monthly wage.

Article 337 (1) is also added to the criminal code – "Organising the activity of a public or religious association or another organisation after a court has taken a decision to ban their activity or to close them down because they give rise to extremism". This article punishes participation in the activity of a religious association that has been banned by a court with a fine of 200 times the monthly wage, or up to two years' imprisonment.

At a round table discussion between parliamentary deputies and human rights activists on 19 May in Astana, all the deputies who spoke saw the new laws as a weapon against what they described as the "ideological diversity" of the West. "We do not want Uncle Sam [a reference to the United States] throwing his weight around here as if this were his home, and so we are adopting the appropriate legislation," Mikhail Troshin, a member of the lower house of parliament and one of those who worked on the new draft law, told Forum 18 on 19 May in Astana.

For a personal commentary on current legal moves to seriously restrict religious freedom in Kazakhstan under the guise of "national security", see F18News http://www.forum18.org/Archive.php?article_id=564

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=249

A printer-friendly map of Kazakhstan is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=kazakh>

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY