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Officials end criminal case against two of Jehovah's Witnesses, releasing them from prison

JW Official Website (22.12.2011) – HRWF (19.01.12) - On December 14, 2011, the chief investigator of the Kadamjay region, together with the regional prosecutor, terminated criminal proceedings against two of Jehovah's Witnesses, 18-year-old Iskandar Kambarov and 22-year-old Jonibek Nosirov. Several weeks earlier, the young men were released from pretrial detention after being imprisoned for more than nine months.

On January 29, 2011, Kambarov and Nosirov were arrested and imprisoned based on a false charge that they possessed two DVDs from a banned, extremist Islamic organization. On May 18, 2011, the Kadamjay Regional Court sentenced the two young men to seven years' imprisonment. However, on June 22, 2011, the Batken District Court (Appeals Instance) cancelled the trial decision, finding several major errors in the criminal investigation. The appeal court ordered a new investigation and the local prosecutor submitted the case to the Supreme Court. On September 13, 2011, the Office of the Prosecutor General of the Kyrgyz Republic withdrew that appeal, upholding the appeal court decision.

In ruling that the criminal case should be terminated, the chief investigator of the Kadamjay Region found that there was absolutely no basis to the charges. Furthermore, he observed that, as Jehovah's Witnesses, the two young men "have nothing in common" with the banned Islamic organization.

"Mr. Kambarov and Mr. Nosirov are overjoyed that their ordeal is now over and they are finally free," states Nurlan Kachiev, an attorney who participated in the proceedings. He added, "They extend their sincere gratitude to the chief investigator and to the prosecutor of the Kadamjay Region for making an objective ruling based on the facts and the law. They are also grateful for the concern and interest shown by senior Kyrgyz officials."

"I received it from heaven"

By Mushfig Bayram

Forum 18 News Service (21.12.11) / HRWF (19.01.12) – <http://www.hrwf.net> - Religious communities in Kyrgyzstan have been encountering bans and great difficulties in inviting foreign religious workers to work with them, Forum 18 News Service has found. Many of the problems relate to officials using the harsh 2009 Religion Law against communities with foreign contacts. There are parliamentary moves to strengthen the Law's censorship provisions, but two Jehovah's Witnesses imprisoned in 2011 on seven-year prison terms after false charges have now been released. However, the Ahmadi Muslim community has been stopped from meeting, and the Grace Presbyterian Church is facing an State Commission for Religious Affairs (SCRA) threat to its legal existence.

The 2009 Religion Law, passed under former President Kurmanbek Bakiev, is hostile to religious communities with foreign contacts, as well as to the exercise of freedom of religion or belief by anyone. If a community has "administrative centres located beyond Kyrgyzstan or having foreign citizens in its administrative body" it is classified as a "mission". This must re-register every year and does not have legal status. It can be refused registration if it poses "a threat to the state and social security, the interethnic and ecumenical concord, health and morality of the population, or in other cases anticipated by legislation".

Similarly, foreign religious workers must register with the SCRA before they can engage in religious activities. This can be denied "if this may endanger public safety, social order, interethnic and ecumenical consensus, social health and morality." In August 2011, Vice Prime Minister Ibrahim Junusov, speaking of "foreign missionaries" in discussing a draft state youth policy, stated that young people may fall into "the western sewage system". He commented that youth policy should counteract any targeting of young people by such missionaries. Junusov was one of the drafters of the Religion Law (see F18News 2 October 2008 http://www.forum18.org/Archive.php?article_id=1197).

The 2009 Religion Law also states that "actions directed to proselytising of the faithful from one denomination to another (proselytism), as well as any other illegal foreign religious worker work, are prohibited". The Law does not (as with many other terms it uses) define these terms. It also imposes censorship of imported religious materials, and those in libraries, as well as placing severe restrictions on their distribution. There are moves in the parliament, the Zhogorku Kenesh, to tighten the censorship. On 20 December 2011 the parliamentary Committee on Education, Science, Culture, Information and Religious Policies approved a bill amending the Religion Law to impose greater controls on the "import, making, obtaining, keeping and spreading of print, photo, video and audio products that contain calls for religious extremism, separatism, and fundamentalism" (see F18News 16 January 2012 http://www.forum18.org/Archive.php?article_id=1655).

Following ex-President Bakiev's April 2010 fall from power, Protestant, Catholic, Baha'i, Hare Krishna, and Jehovah's Witness communities and civil society human rights groups called for the Religion Law to be abolished or radically changed (see F18News 16 April 2010 http://www.forum18.org/Archive.php?article_id=1432).

A "dangerous movement"

Ahmad Basharat, an Ahmadi Muslim invited by Kyrgyzstan's Ahmadi Muslim community, received registration as a foreign religious worker from the SCRA's predecessor agency in 2009, which was renewed by the SCRA in 2010. However he was refused registration renewal by an official letter signed by the Head of the SCRA, Ormon Sharshenov, on 27 July. The letter, which Forum 18 has seen, states that Basharat's registration cannot be

renewed as the Ahmadi Muslims were themselves denied re-registration by an SCRA decision of 13 July. The Ahmadi Muslims had not been denied re-registration as a "mission", as the Religion Law defines them, in previous years.

Among the reasons given for refusal to re-register the Ahmadi Muslims is a National Security Service (NSS) secret police official warning to the SCRA, claiming that Ahmadi Muslims are a "dangerous movement and against traditional Islam".

Ahmadi Muslims, who asked not to be named for fear of state reprisals, told Forum 18 that since July they had stopped meeting for worship in the hope that they will receive state permission to exercise their right to freedom of religion or belief. All unregistered religious activity is banned under the 2009 Religion Law. "There is no freedom of religion in Kyrgyzstan," one Ahmadi Muslim complained (see F18News 18 January 2012 http://www.forum18.org/Archive.php?article_id=1657).

"I received it from heaven"

Head of the SCRA Sharshenov on 20 December declined to discuss the refusal to re-register the Ahmadi Muslim community and Basharat. "How can we issue him a permit if his community is not registered?" he asked Forum 18. Asked how the SCRA concluded that Ahmadi Muslims are dangerous, he replied: "I received it from heaven".

Sharshenov also refused to discuss SCRA refusals to re-register other foreign religious workers. "Send the rest of your questions in writing," he said, before terminating the telephone call.

Few foreign religious worker registrations in 2011?

A foreign religious worker from a community which asked not to be identified, for fear of state reprisals, told Forum 18 on 17 December that "I hear many applications for foreign religious workers are being returned by the SCRA". They added that they thought that no foreign religious workers were able to receive permission to teach in religious education institutions in Kyrgyzstan in 2011.

Their own foreign religious worker registration expires soon, and they commented that they were not sure whether they would receive a new visa to stay in the country.

One Kyrgyz religious community, which is registered but not as a "mission", told Forum 18 on 15 December that "we invite international visitors unofficially". Asking not to be named for fear of state reprisals, they said that this was because such visitors would be required to register as foreign religious workers, "which will not be granted". They commented that it is "such a waste of time to collect the documents for foreign religious worker registration. It may take forever in Kyrgyzstan".

They commented that the Religion Law is to blame for this situation. "We want to unite with other communities to challenge the government to change this discriminatory Law."

Visa problems

Even if a foreign religious worker receives annual registration from the SCRA, this does not necessarily mean that they will be able to work in Kyrgyzstan. Aleksandr Shumilin of the Baptist Union told Forum 18 on 20 December that the SCRA gave registration to one of their foreign religious workers in November. However, the Visas Department would only issue a six-month visa for this person. Shumilin commented that they were "happy to receive the registration, but do not understand why only a six-month visa was given".

Bishop Alfred Eicholz of Kyrgyzstan's Evangelical-Lutheran Church (who has been in the

country since 1999) told Forum 18 on 15 December that their two foreign religious workers had been given visas each time they applied during the past year. "However, the visas are given only for three months, and we have to begin collecting various documents to obtain the visas for the next three months almost immediately, which is a waste of time."

Each time a visa is applied for, the Church – which with its foreign contacts is defined as a "mission" under the Religion Law - has to pay a large amount for Kyrgyzstan, about 1,865 Soms (240 Norwegian Kroner, 30 Euros, or 40 US Dollars). From April 2011 the official minimum monthly salary in Kyrgyzstan is 690 Soms (90 Norwegian Kroner, 11 Euros, or 15 US Dollars).

Oleg Pakhomov, a Kyrgyz citizen who is Director of the International Church in the capital Bishkek, which is officially registered as a local religious organisation, told Forum 18 on 19 December that it is trying to extend the foreign religious worker registration of the Church's Pastor, Tim Berends. He is a Canadian citizen. Pakhomov stated that around one third of their 150 members are Kyrgyz citizens, and that they are hopeful they will obtain re-registration for Pastor Berends.

"However, it is possible he will receive only a three-month visa as a foreign religious worker based on his registration," Pakhomov said. The SCRA had told the Church that "foreign religious worker visas are difficult to obtain at the moment, but they promised that our pastor would at least receive a three-month visa". He said that he was "not sure whether it will be possible to renew our Pastor's registration and visa every three months".

Why shorter-term visas?

Before 2010 Lutheran foreign religious workers were able to receive one-year visas but from the second half of 2010 they were given only six-month visas, Bishop Eicholz said. "There are no provisions in the Religion Law or Decrees that I know of which limit such visas to three or six months," he commented to Forum 18.

The Visas Department of the State Registration Service (which is responsible for all visas) in the capital Bishkek referred Forum 18 to Nurlan Tokonayev. He is the official responsible for issuing visas to foreign religious workers. Tokonayev declined to comment on why shorter term visas were issued to foreign religious workers than the one-year registration issued by the SCRA.

"There is a special Visas Commission consisting of representatives of the Interior Ministry, the NSS [secret police], the Finance Police, and other law-enforcement agencies, which decides who is given visas and for how long," he told Forum 18 on 20 December. "They only send us an instruction on who will receive what kind of visa, and they do not explain to us the reasons for their decisions," he claimed. He refused to discuss the matter further with Forum 18.

Registration application followed by raid

The SCRA does sometimes take direct action along with other authorities against religious communities it dislikes. In a manner similar to the Ahmadi Muslims, the SCRA has claimed that the Grace Presbyterian Church in Bishkek cannot receive foreign religious worker registrations because its status is "under question". However, its registration has not been definitively removed and so, unlike the Ahmadi Muslims, Grace Church is able to continue to meet.

On 17 May the Korean husband and wife founders of the Church, Pastors Kang Hyeong Min and Kang Sook Jin applied for foreign religious worker re-registration. Their previous

registrations expired in June, and prior to 2011 they had had no difficulty with re-registration. The SCRA demanded that the Kangs provide a copy of an invitation to them from the founding members, the list of which must be notarised by the Bishkek City Council.

In an official letter of 10 June, Bishkek Council refused to notarise the list of founding members, stating that although the Religion Law came into force on 31 December 2009 no mechanisms to implement the Law had been established.

There have been persistent delays on the part of officials in the SCRA and its predecessor agencies in issuing Regulations to implement the Law (see eg. F18News 13 August 2009 http://www.forum18.org/Archive.php?article_id=1336).

On 27 July the SCRA wrote to the Church, informing them that on 13 July they had decided that, following Bishkek Council's decision, it was returning the religious worker registration documents to the Church. The SCRA stated that before applying again the Church must resolve its conflict with the City Council.

On 25 September SCRA officials Yusupzhan Kadyrazhiyev, Rafael Aydekov and Kubanychbek Abakirov raided the Church when it was meeting for worship led by the Pastors Kang with local pastors. On 29 September the Pastors Kang received a warning letter, a copy of which Forum 18 has seen, from the SCRA saying that he led religious activity in violation of the Religion Law without having permission from SCRA and a foreign religious worker visa. The letter stated that they must stop their religious activity, which he has done.

Both the Pastors Kang have permanent residence visas in Kyrgyzstan, and can still attend Church services. "The problem for us is that they cannot preach or teach now," church members told Forum 18 on 16 December. "This violates our constitutional rights," they complained.

Court rules SCRA's actions and registration refusal unlawful

Bishkek Inter-District Economic Court on 24 November, following a case brought against the SCRA's actions, ruled that the SCRA had acted unlawfully. This was because it had not decided on the Grace Church's application within the two months allowed by the Religion Law. The Court obliged the SCRA to positively respond to the Church's request.

Head of the SCRA Sharshenov told Forum 18 on 16 December that the SCRA does "not have a problem with the Church". But he went on to claim that "they should complain against the City Council in Court". However, Sharshenov told Forum 18 that the SCRA will challenge the Court verdict in a higher court.

Status "under question"

Sharshenov went on to claim that "we cannot issue foreign religious worker visas for the Grace Church since its status now is under question". "In 2008 by mistake officials re-registered Grace Church as a local organisation, but it is a foreign 'mission' which is how it was first established and registered." He stated that "we have warned the Church to go back to their previous status as a 'mission' and then they will have no problems to get visas for their foreign religious workers".

The text of the official warning signed by Sharsenov, seen by Forum 18, states that the Church's new status was forged by former SCRA officials. He evaded questions on whether any legal action was brought against the former SCRA officials. "We passed this information to the government but it cannot make any decisions on this at the moment, as no-one at the moment is given powers to bring cases to court," he claimed.

Branches threatened with closure

Grace Church members have told Forum 18 that the SCRA also refuses to re-register its four branches in three different regions of Kyrgyzstan. It has also threatened to close them down if they continue unregistered activity (see F18News 16 January 2012 http://www.forum18.org/Archive.php?article_id=1655).

Prisoners released, case closed

Two cousins – both Jehovah's Witnesses – had been sentenced on 18 May to seven years' imprisonment accused of having two DVDs in their private home claimed by the state to be extremist Islamic. The two young men, Iskandar Kambarov and Jonibek Nosirov, insisted that the DVD discs must have been planted by police during a 29 January search of their flat at which they were arrested. The two appealed against their conviction, noting "fabricated evidence" and "procedural violations". In June Batken Regional Court in southern Kyrgyzstan overturned the prison terms, but stated that it rejected the two men's appeal (see F18News 24 June 2011 http://www.forum18.org/Archive.php?article_id=1584).

However, on 15 December Kadamjay Prosecutor's office terminated the criminal case against the two cousins. The case had been referred to them by Batken Regional Court on 12 November for further investigation. The two Jehovah's Witnesses were released on 2 November from pre-trial detention, on the motion of their lawyers pending the completion of the investigation, Jehovah's Witnesses from Bishkek told Forum 18 on 16 December.

Kambarov and Nosirov are "delighted that the case is now over and they are free", Jehovah's Witnesses told Forum 18. "We were very impressed and thankful for the professionalism shown by the new investigator and prosecutor in Kadamjay. They carefully looked at all the facts, considered our arguments, and made a decision based on law to terminate the criminal proceedings."

Open letter of *Human Rights Without Frontiers* to the President of Kyrgyzstan

7 June 2011

Dear Madam President,

We are writing to express serious concern about the criminal prosecution and conviction of Iskandar Kambirov (age 18) and Jonibek Nosirov (age 22).

The two young men are members of the Christian religious organization known as Jehovah's Witnesses. They were convicted by the Kadamjay Regional Court on May 18, 2011, and sentenced to seven years imprisonment based on the claim they possessed two DVDs of the Islamic organization Hizbut-Tahrir, contrary to Article 299.2.2(1) of the Criminal Code.

It appears that the Defendants were singled out for prosecution because they are Jehovah's Witnesses and citizens of Uzbekistan. It is noteworthy that the Defendants are Kyrgyz nationals and have valid Kyrgyz visas and registration.

We have received a copy of the decision of the trial court and the appeal from that decision filed by the Defendants in the Batken District Court. It is concerning that the trial court has disregarded the following key facts, which should instead have resulted in a verdict acquitting the Defendants of the charges:

- The Defendants are Jehovah's Witnesses. It is obvious that as members of that Christian religious organization they would have nothing to do with an extremist Islamic organization.
- The two DVDs found during the search of the Defendants' apartment on January 29, 2011, were most likely planted four days earlier on January 25, 2011. The police testified at trial that on January 25, 2011, a group of four unidentified police officers conducted a secret raid on the Defendants' apartment, without court order. On that same day, January 25, 2011, an "electricity inspection" of the Defendants' apartment also took place (the second in just two days) in which three unidentified persons searched the Defendants' apartment for alleged electricity infractions. They found none. Police officer Ruslan Omoshev who was responsible for the secret raid of the Defendants' apartment on January 25, 2011, participated in the search of the Defendants' apartment on January 29, 2011, which was made without court order.
- There was no evidence that the Defendants had ever seen the two Hizbut-Tahrir DVDs nor was there any evidence that they had ever attempted to offer the DVDs to other persons, which is a fundamental requirement of an offence under Article 299.2.2(1) of the Criminal Code.

In convicting the Defendants the trial judge also failed to give any consideration to the following procedural violations, which render the convictions unlawful:

- The two DVDs were obtained in an illegal police search and seizure of the Defendants' apartment on January 29, 2011. The police did not have a court order for their secret raid of the Defendants' apartment on January 25, 2011, or the search of the Defendants' apartment and seizure of their personal goods on January 29, 2011, in violation of the Article 30(2) of the Constitution, which requires that a search of a private dwelling and seizure of personal goods "shall be allowed only on the basis of a court order."
- The Defendants were detained in police custody from January 29 to February 5, 2011, without court order for a period of at least 144 hours, although Article 24(4) of the Constitution states that no one may be detained without court order for more than "48 hours."
- The Defendants were each repeatedly interrogated by the police from January 29 to February 4, 2011, without having their lawyer present in violation of Article 24(5) of the Constitution.

We respectfully request that this serious matter be given consideration by your office.

Yours truly,

Willy Fautre,

Director, Human Rights Without Frontiers

Jail terms overturned, but investigation continues

By Felix Corley

Forum 18 News (24.06.2011) / HRWF (27.06.2011) - <http://www.hrwf.net> - In a move which local Jehovah's Witnesses described to Forum 18 News Service as a "surprise", Batken Regional Court in southern Kyrgyzstan on 22 June overturned seven-year prison terms handed down to two cousins who are Jehovah's Witnesses. However, rather than be exonerated and freed, the two - Iskandar Kambarov and Jonibek Nosirov - still face possible prosecution. They remain in pre-trial detention. "We hope that reason will prevail and they will now be freed," Jehovah's Witnesses told Forum 18.

The two men had been found guilty of having two discs which police say were from the Hizb ut-Tahrir Islamist movement. Kambarov and Nosirov say the discs were not theirs and must have been planted during one of the police raids on their flat in Kadamjai. All the 609 other items of religious literature and discs confiscated from them were published by Jehovah's Witnesses.

"The Defendants, although respecting all religions, have never practised the beliefs of Islam," Kambarov and Nosirov declared in their 21 June supplementary appeal seen by Forum 18. "They pray to Jehovah, the God of the Bible."

Forum 18 has been unable to find out how the case will now proceed or who the case has now been assigned to at Batken Regional Prosecutor's Office. On 24 June, Forum 18 reached Dinmukhamed Tashkojoev, a senior prosecutor at the Regional Prosecutor's Office who took part in the appeal hearing. As soon as Forum 18 began to ask about the case he claimed he could not hear well and asked Forum 18 to call back. Subsequent calls went unanswered.

Berymukhamed Esenov, an official of the regional office for southern Kyrgyzstan of the State Commission for Religious Affairs (SCRA), did not answer his telephone on 24 June when Forum 18 repeatedly called. He produced an "expert analysis" used during the original trial, claiming that the two DVDs were extremist.

"Procedural violations" at original trial

The original trial of 18-year-old Kambarov and 22-year-old Nosirov began on 28 April. It took place under Judge Lutfulla Saliev at Kadamjai District Court in Batken Region.

The cousins were accused of violating Article 299-2.2.1 of the Criminal Code ("Acquisition, storage, transport and despatch of extremist materials with the aim of distribution, or of their preparation and distribution, as well as the deliberate use of symbols or attributes of extremist organisations", conducted by a group of people). This Article was added to the Criminal Code in February 2009 after popular unrest in Nookat in Osh Region, at the end of Ramadan in October 2008.

The extremist materials in question were claimed to be from the banned Hizb ut-Tahrir Islamic party.

Serious procedural violations took place in both the arrests and the trial, however these were ignored during the trial. After hearings on 10, 11, 12 and 16 May, Judge Saliev handed down his guilty verdict on 18 May, giving both seven year prison terms in strict regime labour camp, according to the verdict seen by Forum 18.

Men "in good spirits"

One Jehovah's Witness told Forum 18 on 24 June that he had visited Kambarov and Nosirov in the police detention facility in Batken the previous day. Both had been "in good spirits", despite the failure of their attempt to be fully exonerated. "They remain hopeful of being cleared."

Jumabai Abdrohmanov, Chief of the Detention Facility, declined to allow Forum 18 to speak to either Kambarov or Nosirov by telephone. "I am not authorised to give this permission," he told Forum 18 on 24 June. He claimed that their conditions in the facility are "OK", then put the phone down.

The two men's lawyer is planning to lodge an appeal, to have the case terminated, to the General Prosecutor's Office in the capital Bishkek.

Sentences overturned, but investigation to continue

At the Batken Regional Court appeal hearing on 22 June, a panel of three judges chaired by Maksut Adanbaev cancelled the 18 May verdicts, according to the court decision seen by Forum 18. However, despite this, the Court specifically stated that it rejected the two men's appeal.

"The criminal case and the material evidence of the two DVDs of the Hizb ut-Tahrir party should be sent back to the Batken Prosecutor's Office, to remedy the gaps in the investigation process", the court ruled. It chose not to send the case back to Kadamjai District Prosecutor's Office, who led the original prosecution.

The Regional Court also ruled that the two cousins should remain in detention while the investigation continues. It also ruled that they should pay court costs of 500 Soms (60 Norwegian Kroner, 8 Euros or 11 US Dollars).

The two men had argued that two discs claimed to be from the Hizb ut-Tahrir Islamist movement, which police claim to have found in their flat on 29 January, did not belong to them. They think the discs must have been planted there either by the police who conducted the unsanctioned search of their flat, or by alleged electricity workers who had visited the flat in the week before the search.

The two men argued in court that as Jehovah's Witnesses they had no connection with Hizb ut-Tahrir and had none of their literature or discs. They claim that the "evidence" of the discs had not been collected lawfully, was not properly witnessed, and their ownership of the discs could not be demonstrated. They rejected a claim by the two alleged electricity workers (one of whom admitted in court he had worked for the police) that they had shown one of the discs to them on their television.

The "gaps" the court identified as needing clarification were: the total number of discs confiscated by police; where the discs were found; whether the discs and literature were sealed on confiscation; and which disc the defendants allegedly showed to the "electricity workers".

Regional Ombudsperson and OSCE follow case

The case has been followed by the representative for Batken Region of Kyrgyzstan's Human Rights Ombudsperson, Kamaldin Rakhmatulaev, who observed the original trial. Jehovah's Witnesses told Forum 18 they welcomed his concern about the procedural violations in the case.

Also following the case has been the Field Office in Osh of the Organisation for Security

and Co-operation in Europe (OSCE).

Officials defend prosecution

Police and other officials involved in the case continued to defend the prosecution of the two cousins, despite the annulling of the sentences. Ruslanbek Omoshov of the Police's 10th (Anti-terrorism) Department – who had initiated surveillance of the two, was present during the police search of their flat and testified at the original trial – says he still believes they are guilty. "Our agency found them to be guilty, but we are not involved in the case any more," he told Forum 18 from Kadamjai on 24 June. "We're little people who just work on things in our District. This will now be decided on a regional level."

Kadamjai District Deputy Prosecutor M. Ashimov, who led the case and testified in court, told Forum 18 the same day that he believes the two cousins are guilty. "But let the court decide." He said he is studying the Regional Court decision. "If we don't think it was right, we will challenge it."

Ashimov defended the prosecution, and rejected claims that the search of the two men's flat had not been legal. "There was permission for the search," he claimed.

Kyrgyzstan's General Prosecutor's Office issued a statement on its website on 15 June specifically countering Forum 18's coverage of the case by repeating the prosecution's claims. It repeated claims that two Hizb ut-Tahrir discs had been found in Kambarov and Nosirov's flat and that they were duly sentenced for "holding religious-extremist materials".

Seven year sentences despite "fabricated evidence" and "procedural violations"

By Felix Corley

Forum 18 News (23.05.2011) / HRWF (30.05.2011) - <http://www.hrwf.net> - Two cousins – both Jehovah's Witnesses – were sentenced on 18 May to seven years' imprisonment accused of having two DVDs in their private home claimed by the state to be extremist Islamic, Forum 18 News Service has learned. The two young men, Iskandar Kambarov and Jonibek Nosirov, insist the DVD discs must have been planted by police during a 29 January search of their flat at which they were arrested. The two have appealed against their conviction, noting "fabricated evidence" and "procedural violations". The two have been denied religious literature they have requested on the orders of the Judge who sentenced them, Judge Lutfulla Saliev. Forum 18 has been told that the judge's phone is broken. Two anti-terrorism police officers stated that they put the flat under surveillance because the two had been "preaching" and only went out after dark. No warrant was issued authorising the raid that accompanied the arrests. Until 4 February the police denied that the two were in detention, although court documents contradict this claim. No date has been set for the appeal.

Almost four months after their arrest, two cousins – both Jehovah's Witnesses – were sentenced on 18 May to seven years' imprisonment accused of having two DVDs in their private home claimed by the state to be extremist Islamic, according to court documents seen by Forum 18 News Service. The two young men, Iskandar Kambarov and Jonibek Nosirov, insist the DVD discs must have been planted by police and complain of numerous procedural violations in their arrest and trial. They have lodged appeals against the sentences.

Two anti-terrorism police officers, revealed in court documents to have been involved in January raids on the flat, have refused to discuss with Forum 18 why they put the private home under surveillance and why the two Jehovah's Witnesses were targeted.

Berymukhamed Esenov, an official of the regional office for southern Kyrgyzstan of the State Commission for Religious Affairs (SCRA), was unable to tell Forum 18 whether individuals have the right to discuss religious issues in their own homes. Esenov produced an "expert analysis" claiming the DVDs were extremist (see below).

Seven year sentences

The trial of 18-year-old Kambarov and 22-year-old Nosirov began on 28 April. It took place under Judge Lutfulla Saliev at Kadamjai District Court in Batken Region, the most south-western region of Kyrgyzstan.

The cousins were accused of violating Article 299-2.2.1 of the Criminal Code ("Acquisition, storage, transport and despatch of extremist materials with the aim of distribution, or of their preparation and distribution, as well as the deliberate use of symbols or attributes of extremist organisations", conducted by a group of people). This Article was added to the Criminal Code in February 2009 in the wake of popular unrest in Nookat in Osh Region at the end of Ramadan in October 2008.

Serious procedural violations took place in both the arrests and the trial, however these was ignored during the trial (see below). After hearings on 10, 11, 12 and 16 May, Judge Saliev handed down his guilty verdict on 18 May, giving both seven year prison terms, according to the verdict seen by Forum 18.

Forum 18 was unable to reach Judge Saliev to discuss the case, as court officials stated on 23 May to Forum 18 that his telephone was broken.

The representative for Batken Region of Kyrgyzstan's Human Rights Ombudsperson, Kamaldin Rakhmatulaev, observed the trial, his colleagues confirmed to Forum 18 on 23 May. However, they said he is now on leave until the beginning of July.

Graziella Pavone, Human Dimension Officer at the Field Office in Osh of the Organisation for Security and Co-operation in Europe (OSCE), confirmed that an observer from the OSCE Field Office in Osh monitored the first two days of the trial on 10 and 11 May. "The OSCE Centre in Bishkek/Field Office in Osh will continue to follow this case," she told Forum 18 from Osh on 23 May.

Why was private flat searched?

Trouble began for the two cousins on 22 January, when the flat in Kadamjai where they live, south-west of Kyzyl-Kyya, was put under police surveillance, two officers of the Police's 10th (Anti-terrorism) Department Ruslanbek Omoshov and Keneshbek Talipov told the court. They said they had done so because the two had been "preaching" and only went out after dark.

On 23 January two people visited the flat claiming to inspect the electricity system. Jehovah's Witnesses told Forum 18 that they think at least one of them was from the National Security Service (NSS) secret police.

On 25 January an electricity company official arrived at the flat, ostensibly for a "routine" inspection. She was accompanied by three men, but she told the court she could not remember who they were. Jehovah's Witnesses told Forum 18 that again at least one of them was from the NSS secret police.

The two police anti-terrorism officers told the court that they arranged for four police officers to raid the flat on 25 January, but said they could not discuss the raid because it was "confidential". No warrant was issued authorising the raid.

Eight police officers – including anti-terrorism officer Omoshov – raided the flat on the evening of 29 January, when it was already dark.

Illegal search

Kambarov and Nosirov insist in their appeal that the search was illegal as it was conducted without a warrant and after dark. They point to Article 184 Part 5 of the Criminal Procedure Code, which says that searches must be conducted in the day time "except in cases not allowing for delay".

During the search, which lasted over an hour, Nosirov (the only one at home) was instructed to place all his religious literature in a box.

However, the police did not seal the box and did not supply a detailed description of the confiscated items – which police are required to do under the Criminal Procedure Code. The box with its alleged contents were handed to the Osh office of the SCRA two days after the raid, on 31 January.

After Nosirov was ordered to place items in the box, Police Officer Omoshov then ordered him to lift the carpet in the kitchen, according to the two men's appeal. To Nosirov's surprise he found an unmarked DVD, which was added to the box. "The actions of Officer Omoshov indicate that he already knew that the DVD was under the corner of the carpet," the appeal notes.

Police Investigator U. Kurmanaliev then took the only key to the flat from the two Jehovah's Witnesses.

Victims "invited" police?

Officer Omoshov claimed that Kambarov and Nosirov had "invited" the police to their flat. "They were checking identity documents and the two invited them in," he told Forum 18 from Kadamjai on 23 May. "We saw books on the table and looked through them." Asked why, if the aim had been to check identity documents the police had examined books or anything else, he declined to discuss anything else. "This is not a conversation for the telephone," he said without explanation and put the phone down.

Forum 18 was therefore unable to ask Omoshov about Nosirov's discovery of the DVD under the carpet in his kitchen.

Similarly Investigator Talipov, reached the same day, insisted to Forum 18 that "this is not the subject of a phone conversation". He too did not explain and put the phone down.

Arrest – and then contradictory claims

Nosirov was arrested in the flat on 29 January, while Kambarov was arrested at 10 pm that evening as a "witness".

On 31 January, the same day he received the discs from the police for a "judicial religious analysis", Esenov of the SCRA told the police one of the discs was from the banned Hizb-ut Tahrir Islamic party. Although Esenov's full "expert analysis" was not produced until 10 February, on 3 February Investigator Kurmanaliev claimed that two

Hizb-ut Tahrir discs had been found. He had launched a criminal case against the two men on 2 February.

(For an outline of Hizb-ut-Tahrir's views, see F18News 10 April 2006 http://www.forum18.org/Archive.php?article_id=755 .)

Esenov of the SCRA confirmed he had testified at the trial, but declined to discuss his court testimony with Forum 18 on 23 May.

Omoshov and Investigator Kurmanaliev denied to the court that Nosirov and Kambarov were in custody from 29 January. However, this claim is contradicted by not only the arrests themselves, but also documents such as interrogation records and a 3 February order from Kurmanaliev for a medical examination to determine whether or not the two men had been beaten by police.

Only on 4 February were the two men allowed contact with a lawyer. It was only in the late afternoon of 5 February that a court sanctioned the detention of the two men, although Article 24 Part 4 of Kyrgyzstan's Constitution includes the provision "No one can be subjected to detention for a period of more than 48 hours without a court ruling".

The head of the temporary isolation cells at Kadamjai Police Station – who said he was not allowed to give his name – insisted to Forum 18 on 23 May that the two men had been arrested on 4 February, not 29 January. However, he refused to say where they had been held between 29 January and 4 February and why documents from the investigation contradicted his assertion.

Appeal

The defendants argued in court that there was "strong evidence" the two discs were planted on them. They insist they could have been planted during either of the police raids or during the alleged electricity inspection. They say the prosecution failed to prove that they own the discs, that they intended to distribute them, or that they represented a group intending to do so.

On 19 May, because of the conduct of the arrests, detentions and trial, the two Jehovah's Witnesses lodged their appeal to Batken Regional Court before the formal written verdict was received. The appeal notes both "fabricated evidence" and "procedural violations".

No date has yet been set for the appeal hearing.

The two have also filed a complaint with the Prosecutor General's office about the prosecution.

Still detained – without being allowed religious literature

Fellow Jehovah's Witnesses told Forum 18 on 23 May that Nosirov and Kambarov are still being detained at Kadamjai Police Station. The head of the temporary isolation cells there refused to allow Forum 18 to speak to them by telephone on 23 May. "The law doesn't allow this. Only a court can order this."

The head of the isolation cells – who said he was not allowed to give his name – insisted to Forum 18 on 23 May that the two men's health is "excellent", that they are allowed visits from relatives and that they can have religious literature if they want. He admitted that they do not have religious literature such as Bibles at present, claiming they have not asked for them and no one has brought them any. He said that if some is brought it would be handed to them.

Jehovah's Witnesses told Forum 18 that Nosirov and Kambarov had repeatedly asked to have religious literature and raised the issue at the start of the trial, but the prosecutor called for the move to be rejected and the judge ruled against allowing them to have such literature.

Jehovah's Witnesses added that in the months leading up to the trial, the two men's relatives were allowed only weekly meetings with them each Friday which lasted at most two or three minutes.

Pressure and questioning

In the days after the trial, one Jehovah's Witness who had attended the trial to support Nosirov and Kambarov was detained, Jehovah's Witnesses told Forum 18, asking that the individual not be identified for fear of further state reprisals. Taken to the police station, the Jehovah's Witness was questioned by an NSS secret police officer and pressured to write a statement before being freed.

Kyrgyzstan sentences two of Jehovah's Witnesses to seven years' imprisonment

JW Official Website (18.05.2011) / HRWF (30.05.2011) - <http://www.hrwf.net> - The Kadamjay Regional Court sentenced two young men, Iskandar Kambarov (18 years old) and Jonibek Nosirov (22 years old) to seven years in prison on the charge of possessing two DVDs of an extremist Islamic organization. The two men, who are Jehovah's Witnesses, have been held in police custody since their arrest on January 29, 2011.

Human rights defender Nurlan Kachiev, who participated in the trial, concluded that, "the evidence showed that the two DVDs 'found' in an unlawful search of the accused young men's apartment on January 29, 2011, were planted most likely during a secret police raid of their apartment on January 25, 2011, or during an 'electricity inspection' that same day." He further stated, "In addition to a conviction contrary to overwhelming evidence, the trial court also ignored multiple violations of the rights guaranteed by Kyrgyzstan's Constitution and international law. They were detained in police custody without a court order and interrogated without a lawyer being present."

The testimony presented during the trial, revealed that the two young men had never displayed anti-government behavior in the past. On the contrary, neighbors of the accused testified that Kambarov and Nosirov were known as friendly, peaceful, and helpful. The accused men also testified that their firmly held Bible-based religious beliefs require them to display genuine respect and honor for governmental authorities at all times.

"The conviction of the defendants is a shocking disregard for the evidence at the trial and the rule of law," states Mr. Kachiev. "The defendants filed an appeal on May 19." (*)

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HRWF Footnote

(*) In their appeal, the lawyers of the accused state: "The May 18, 2011, decision of the Kadamjay Regional Court (Trial Court) convicting

the Defendants under Article 299-2(2)(1) of the KR Criminal Code is without any legal or factual basis and must be overturned. The decision is a shocking violation of fundamental rights protected under the KR Constitution and international law. The decision completely disregards the overwhelming evidence before the Trial Court which proved the Defendants, as members of the Christian religious organization known as Jehovah's Witnesses, have absolutely nothing to do with the extremist Islamic organization "Hizbut-Tahrir." To the contrary, the evidence showed that the Defendants are exemplary young men, who are peaceful, kind, and have consistently demonstrated genuine respect for the authorities. The Defendants adamantly state that the two DVDs containing "Hizbut-Tahrir" material are not theirs and they have never seen or viewed either disk.

Bishkek preparing ground for crackdown on religious radicals

By Deirdre Tynan

Eurasianet (05.01.2011) / HRWF (10.01.2011) - Website: <http://www.hrwf.net> - Authorities in Kyrgyzstan appear to be laying the groundwork for a broad crackdown on perceived religious radicals, following January 4 firefights that left four law-enforcement officers and two alleged militants dead.

Top security officials in Bishkek described the incidents as a call to arms against perceived Islamic militants. "A war has been declared on all of us. ... We must distinguish between good and evil. Today evil is wearing the mask of a believer, trying to intimidate us, to cause panic and division," Interior Minister Zarylbek Rysaliyev was quoted as saying in a statement posted on the ministry's website.

Kyrgyz authorities have cast the militants responsible for the January 4 shootings as "jihadis" connected to a bomb blast on November 30 at the Sports Palace and a foiled Christmas day car bomb attempt at police headquarters in Bishkek.

Three police officers were killed in a southern suburb on the evening of January 4 amid a "routine" document check near an apartment complex. The suspects opened fire with automatic weapons unexpectedly after being stopped. They then fled the scene, authorities said on January 5.

Hours later, the militants were cornered in an abandoned house near Arashan village, south of the capital. One militant blew himself up, another was shot and killed, and a third was seriously wounded and taken into custody. An officer from the elite Alfa unit also died during the gunfire exchange. According to local news sources, the dead Alfa unit member was to face trial for his alleged role in the April 7 events that toppled ex-president Kurmanbek Bakiyev. More than 80 protestors died during those initial protests.

Without producing evidence to substantiate their claims, security officials asserted the suspects were affiliated with an unnamed Islamic radical group. "This is a religious extremist group whose activists and leaders were trained in specialized camps in Pakistan and Afghanistan. They are adherents of radical persuasions and the brains behind the group aim to create a caliphate on the territory of the Ferghana valley," Marat Imankulov, the first deputy chairman of the State National Security Committee, told the 24.kg news agency on January 5.

Separately in Bishkek on January 5, human rights activists and the families of nine suspects previously arrested in connection with the November blast at the Sports Palace, which is being used as a make-shift court house, said the cases against them are fabricated. They also say that their confessions were obtained via the use of torture.

Editor's note:

Deirdre Tynan is a Bishkek-based reporter specializing in Central Asian affairs.
