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## **No freedom of religion or belief "unless they have registration", Anti-Terrorism Police claim**

Forum 18 (19.12.2014) - Kazakhstan – in defiance of its binding international legal obligations – demands that groups of people can exist as a religious community and exercise freedom of religion or belief only if they have state permission. Permission to

exist is gained via state registration. Yet even religious communities who try to register or have registered are prevented by officials from exercising their freedom of religion or belief, Forum 18 News Service notes. The most recent known examples of communities facing such official obstruction are a Protestant church in Atyrau and an independent mosque community in Petropavl, both of which are yet again seeking registration, and a Hare Krishna community in Kostanai which is already registered.

The Kostanai Hare Krishna community's leader, Sergei Geller, has lodged an appeal to the United Nations (UN) Human Rights Committee. This calls among other things to be able to exercise freedom of religion or belief without fear of criminal or administration punishment, and for Kazakhstan to end its requirement that religious communities can only exercise freedom of religion or belief with state permission. Kazakhstan's Mission to the UN in Geneva confirmed it had received correspondence – however was unable to explain why it had not replied by a 5 December deadline (see below).

### ***Denial of binding international obligation***

Kazakhstan's Religion Law imposes a complex and restrictive state registration system, including state checks on a community's beliefs and demands for at least 50 people willing to identify themselves in writing to the authorities as founders. Many people are afraid to do this, for fear of state reprisals (see Forum 18's Kazakhstan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

Vladimir Ivanov, Head of the Culture Ministry's Religious Affairs Committee's Division of relations with Christian and other non-Muslim organisations claimed – in defiance of the facts - that the demand for compulsory state registration of religious communities is not in violation of Kazakhstan's international obligations. The demand also does not violate the Constitution, he claimed to Forum 18 on 18 December.

This ban on exercising human rights without state permission does violate international law, as UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt made clear during his March-April visit to the country (see below). This is also clearly laid out in the Organisation for Security and Co-operation in Europe (OSCE)/Venice Commission Guidelines on the Legal Personality of Religious or Belief Communities (see [http://www.legislationline.org/download/action/download/id/5719/file/VC\\_ODIHR\\_Guidelines\\_Legal\\_personality\\_religious\\_communities\\_2014\\_en.pdf](http://www.legislationline.org/download/action/download/id/5719/file/VC_ODIHR_Guidelines_Legal_personality_religious_communities_2014_en.pdf)). Kazakhstan is both an OSCE participating state and a Venice Commission member state.

### ***Church seeking registration***

The Full Gospel Church in the Caspian Sea port of Atyrau [Atyraü] in north-western Kazakhstan has made repeated attempts to apply for state permission to meet to exercise freedom of religion or belief. Its first application in 2014 was on 17 January and its most recent on 14 October 2014.

"We do not want to violate the Religion Law and be punished, but the authorities put pressure on our members so we cannot get registration," Nurlubek Zhalgasbayev, the Church's leader, told Forum 18 on 10 December. "Now we don't know what to do."

He complained that the applications were each time turned down because the Justice Department in Atyrau arbitrarily removed names from the list of founders, bringing the number below the required 50 adult citizens.

Pastor Zhalgasbayev and his Kazakh-language Church have long faced pressure for exercising freedom of religion or belief without state permission. It has repeatedly sought state registration in vain since before 2005 (see F18News 30 May 2005 [http://www.forum18.org/Archive.php?article\\_id=572](http://www.forum18.org/Archive.php?article_id=572)).

## ***Anti-terrorism?***

"Each time we [in 2014] applied to the Justice Department with the list of 50 founders, Atyrau Anti-Terrorism Police officer Askar Rakhimov visited and compelled some of the founding members to write statements he dictated," Pastor Zhalgasbayev continued. Anti-Terrorism Police officer Rakhimov forced those founders to "confess that we had unauthorised meetings, or that they did not understand the full responsibility of being a founder and only signed because the Church or a family member asked them to".

Each time the Anti-Terrorism Police reduced the list of founders by these means, the Justice Department rejected the Church's applications for registration as "there is a problem with the list of founders".

"We were presented by the police with statements written by Church founders that they either were not Church members or just joined the Church and were asked to sign as founders", Nurlan Kuzenbayev, Deputy Head of Atyrau Justice Department told Forum 18 on 18 December. "They therefore wished to withdraw their signatures", he claimed. Asked why the authorities demand that religious communities must register and then pressure them not to register, he replied "you must ask that question to the police". Religious communities cannot meet "until they receive registration, which is what the Law demands", Kuzenbayev stated.

## ***"Police did not pressure me"?***

Anti-Terrorism Police officer Rakhimov visited a number of those who had signed the Church's registration application as founders, several who asked not to be named for fear of state reprisals confirmed to Forum 18 between 10 and 16 December. Some he visited in their workplaces or homes, while others he stopped on the street. Rakhimov compelled them to write the statements Pastor Zhalgasbayev described.

All the statements included phrases such as "Atyrau Police did not pressure me" and that they "wrote the statement of their free will". After writing these statements, the founders withdrew their names from the list of founders.

Anti-Terrorism Police officer Rakhimov asked "many questions about our church, members and leaders, why I attend the church, and why I decided to be a founder".

When one person refused to write a statement, Rakhimov said that "only he can decide what I should or should not do". He then warned that they will be "in trouble" unless they write the statement. "I was afraid, and wrote what he dictated to me," the individual told Forum 18. "I don't even remember exactly everything that I wrote."

Another told Forum 18 that Anti-Terrorism Police officer Rakhimov shouted at them at work, in the presence of their supervisor, that "unless I withhold my signature as a founder I will be dismissed from my job". The person later declined to be a founder.

Rakhimov compelled one person who is not a Church member to write a statement that "the Church is a destructive sect", and withdrawing the signature of a fellow family member (without consulting the family member).

## ***"Help"?***

"Rakhimov deceived me into writing a statement that we are a group of believers who regularly meet for worship, by promising that he will help with the registration of our Church," one Church member told Forum 18. "But I didn't know that he was lying to me, and that his purpose was to get a written confession from me that we violated the Religion Law."

Anti-Terrorism Police officer Rakhimov claimed to Forum 18 on 10 December that he visited people "because we received a complaint from neighbours of the church member in whose home they held unauthorised meetings". He refused to answer why he put pressure on people, claiming instead that "those meetings disturbed neighbours".

Rakhimov denied that he threatened people and forced them to write statements he dictated, claiming that "they all wrote of their free will".

Investigation – but of the police or their victims? Some of the founders the Anti-Terrorism Police pressured into writing statements have written to the head of Atyrau Regional Police Arman Jalmukhanbetov, to whom Rakhimov reports, withdrawing their statements. Those founders told Jalmukhanbetov that they wrote them under pressure, and do not agree with what they wrote. The Justice Department has, however, ignored these protests.

Jalmukhanbetov was claimed to Forum 18 on 15 December as being "busy in a meeting". On 16 December Berik Aymurzin, Deputy Police Chief and Head of the police Investigations Division, claimed not to have heard of the case – even though Forum 18 had been told by Atyrau Police that Aymurzin was able to discuss it.

Anti-Terrorism Police officer Rakhimov told Forum 18 that "we had a commission, including the National Security Committee (KNB) secret police and Regional Administration officials, and they investigated the Church's complaint against our investigation".

Deputy Police Chief Aymurzin refused to tell Forum 18 whether the authorities will respond to citizens' complaints about the police, or discipline Rakhimov.

Rakhimov refused to say why the KNB secret police is involved, or whether the KNB or Justice Department asked him to investigate the Church, claiming that "I am not competent to answer you on this."

All religious communities are thought to be under surveillance by the ordinary police and KNB secret police. Many communities are reluctant to discuss this - including KNB attempts to recruit informers - for fear of state reprisals. There have also been apparent attempts to smear or blackmail members of some religious communities (see Forum 18's Kazakhstan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

### ***No freedom of religion or belief "unless they have registration"***

Anti-Terrorism Police officer Rakhimov refused to say why a religious community cannot meet for worship while applying for registration, claiming that "it's not our fault - the Justice Department rejected their application". He then claimed that people cannot meet together to exercise their freedom of religion or belief "unless they have registration from the Justice Department".

The Church may be targeted for more state action, Rakhimov indicated, claiming that people had "complained to the Prosecutor's Office that the authorities are not taking the case seriously, and not punishing the Church for illegal activity". One person Rakhimov claimed had done this denied to Forum 18 that they had done this.

Asked what charges are being brought against the Church, Rakhimov then claimed that "I cannot hear you" although Forum 18 could clearly hear him. He then put the phone down, and has not answered calls made since 10 December.

Pastor Zhalgabayev stated that "we are afraid to worship or pray together because we may be punished". He also noted that "we also are hesitant to apply for registration, because we fear that the authorities will put more pressure on our members".

### ***Mosque community still trying to register***

The Din-Muhammad Mosque community – which caters mainly to ethnic Tatars in the northern city of Petropavl – is once again trying to obtain state registration, despite being formally liquidated and its Mosque confiscated.

The Mosque was built in 1852 and forcibly closed by the state on 5 February 2014, the state claiming it "is to be handed over to another religious organisation". But the Muslims of the mosque community have decided to carry on holding namaz (prayers) together and to continue to exist. Marat Zhamaliyev, deputy head of the regional Finance Department, told Forum 18 on the day of the liquidation that "we're not liquidating the mosque, we're liquidating the community". He insisted that the juridical community had been liquidated by a court and therefore did not exist. The Din-Muhammad Mosque may be the last remaining publicly-accessible mosque independent of the state-backed Muslim Board (see F18News 5 February 2014 [http://www.forum18.org/archive.php?article\\_id=1924](http://www.forum18.org/archive.php?article_id=1924)).

"We live under constant fear that any time we will be thrown out of the Mosque since, according to court documents, it no longer belongs to us", Imam Rafael Ryazapov of the Mosque community told Forum 18 from Petropavl on 15 December.

### ***"Unlawfulness of court decisions"***

"The Supreme Court on 11 September rejected our petition to review the previous Court decisions supporting the authorities' refusal to register us", Imam Ryazapov stated. Two complaints to Kazakhstan's General Prosecutor's Office about the "unlawfulness of court decisions" were also rejected on 29 October and 27 November.

The Mosque community has strongly opposed the state's efforts to close them down, contesting the authorities' long-standing "legal" and extra-legal harassment of them (see eg. F18News 2 October 2013 [http://www.forum18.org/archive.php?article\\_id=1882](http://www.forum18.org/archive.php?article_id=1882)).

Despite failure to overturn court decisions, harassment of founders and arbitrary application rejections similar to that experienced by Atyrau's Full Gospel Church, the Din-Muhammad Mosque community is still trying to get state registration. "We have collected new documents as a community under a different name, and are planning to submit our documents for registration in early 2015", the Imam told Forum 18.

Asked whether the Mosque community can obtain registration, Yernar Seydimbekov, Head of North-Kazakhstan Regional Justice Department, which is responsible for registration, replied to Forum 18 on 18 December "why not if their documents are in accordance with the Laws of Kazakhstan and their teachings receive positive expert opinion?" Asked what the authorities did not like about previously applications, he claimed he does not remember. He then stated "let them submit their documents and we will see".

### ***Denial of freedom of religion or belief's strong impact on Muslims***

Kazakhstan's demand that religious communities can only exist or function with state permission has a strong impact on Muslims. The government has allowed only one Muslim religious community in all of Kazakhstan to gain state registration: the state-backed Muslim Board. Only mosque communities under its control are allowed to function, even though nowhere in the country's published law is this stated.

All other Muslim communities and organisations – including Ahmadi Muslim congregations, independent mosques (such as the Tatar-Bashkir mosque in Petropavl), and mosques catering to specific ethnic communities (such as Azerbaijanis, Chechens, or Uighurs) – are banned from exercising their right to freedom of religion or belief (see Forum 18's religious freedom survey of Kazakhstan [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

The independent Tabligh Jamaat Islamic missionary movement is particularly targeted by the state. Mamurzhan Turashov was given a three-year prison term on 2 December in south Kazakhstan, and a similar criminal trial began in Taldykurgan on 9 December of five apparent Tabligh Jamaat adherents. Twenty suspected Tabligh Jamaat adherents were detained in Almaty in late November. Officials have refused to discuss any aspect of the cases with Forum 18. Tabligh Jamaat was banned in February 2013, even though the KNB secret police admitted that Tabligh Jamaat literature did not have "extremist, terrorist, or any other calls against Kazakhstan's laws". However, the KNB claimed that "all their activity could be characterised as subversive in the ideological sphere, forming in the population anti-social or anti-civil positions" (see F18News 12 December 2014 [http://www.forum18.org/archive.php?article\\_id=2023](http://www.forum18.org/archive.php?article_id=2023)).

### ***Registered community appeals to UN Human Rights Committee***

Kostanai's Hare Krishna community's leader Sergei Geller has appealed to the UN Human Rights Committee, after he was one of two Hare Krishna devotees fined for participating in a community meeting in his private flat in Kostanai in June 2013. The Human Rights Committee received the complaint on 5 June 2014 resolved that Kazakhstan should respond to the Committee and Geller by 5 December, Yelizaveta Moksheva, a lawyer from the Kostanai branch of the Kazakhstan International Bureau for Human Rights and the Rule of Law who prepared the complaint, told Forum 18 on 18 December. "However, we have not received any response from the state", she observed.

Bakbergen Koishybayev, a Prosecutor's Office official attached to Kazakhstan's Mission to the UN in Geneva to liaise on such complaints, confirmed that Kazakhstan had had official correspondence from the Human Rights Committee on Geller's case. But he was unable to explain why his government did not respond on Geller's complaint on time. "I know that the deadline was 5 December," he told Forum 18 from Geneva on 19 December. "We are preparing our response and the government is due to present it to the United Nations by the end of next week." He said he was unsure whether the response was being prepared on behalf of the government by the Prosecutor's Office, or by the police.

### ***Raided and fined for meeting***

The state registered religious community was holding a private meeting to resolve internal issues, but not at the community's registered address. The Hare Krishna community had invited to officials – from the police and the regional administration – to observe the meeting. After the officials left, the meeting was raided by police and in September 2013 a visiting Hare Krishna devotee was fined for "illegal missionary activity" for attending the meeting. The same month Geller was fined for organising an "illegal religious meeting". The community's activity was also banned for three months, though this ban was overturned on appeal (see F18News 30 December 2013 [http://www.forum18.org/archive.php?article\\_id=1891](http://www.forum18.org/archive.php?article_id=1891)).

Geller's 12 May 2014 UN appeal notes that although the law does not require it, the Regional Religious Affairs Department has insisted since 2008, that the community informs it, the ordinary police, the KNB secret police and the Justice Department of every meeting for worship or other purposes. Indeed, at the September 2013 court hearing

both the prosecution and the judge accused him of holding an "illegal" meeting because of an alleged failure to inform the authorities – even though at the meeting two officials were present at the invitation of the community. The prosecution refused to specify what law required such notification.

Nurikan Nugurbekov, Head of the Regional Administration's Religious Affairs Department, claimed to Forum 18 on 18 December that he did not know whether the Regional Administration or the KNB secret police had demanded prior notification of Hare Krishna meetings – even though his Department's officials have been at such meetings. "If they did it is wrong", he stated.

Geller also learnt just before the court hearing that prosecutors had considered bringing a criminal case against him under Criminal Code Article 164, which punishes "Deliberate actions aimed at the incitement of social, national, clan, racial, or religious hatred or antagonism, or at offence to the national honour and dignity, or religious feelings of citizens, as well as propaganda of exclusiveness, superiority, or inferiority of citizens based on their attitude towards religion, or their genetic or racial belonging, if these acts are committed publicly or with the use of the mass information media". Punishments range from a fine to imprisonment of up to seven years. However, prosecutors decided not to use this charge against Geller.

Retired Presbyterian Pastor Bakhytzhan Kashkumbayev and atheist writer Aleksandr Kharlamov are still being investigated on criminal charges including Article 164, to punish them for exercising the right to freedom of religion or belief. Both have been detained in a psychiatric hospital for no medical reason. Article 164 and other articles of the Criminal Code which punish the exercise of freedom of religion or belief are (along with similar articles of the Code of Administrative Offences) being replaced with similar articles in the new Criminal and Administrative Codes which mainly come into force on 1 January 2015 (see F18News 9 July 2014 [http://www.forum18.org/archive.php?article\\_id=1976](http://www.forum18.org/archive.php?article_id=1976)).

Moksheva from the Kazakhstan International Bureau for Human Rights and the Rule of Law attended Geller's appeal hearing. She noted that the judge was "prejudiced" against both him and the Hare Krishna community.

### ***Government's violations of international law***

Geller UN appeal states, among other things, that he was punished for exercising his right to freedom of religion or belief even though this right is laid down in the International Covenant of Civil and Political Rights' (ICCPR) Article 18 ("Freedom of thought, conscience and religion"). Kazakhstan ratified the ICCPR in 2006, and it is legally binding on the state. Geller argues that the government's restrictions are not permitted under Article 18. He also maintains that the government is treating his community differently from others, in violation of ICCPR Article 26 ("Equality before the law"). Geller notes that both the state-backed Muslim Board and the Russian Orthodox Church are able to conduct meetings for religious purposes outside registered places of worship without official permission.

Geller also noted that the local Administration has published (using material from the Culture Ministry) and sponsored the distribution of brochures and other leaflets describing the Hare Krishna community (and other communities they regard as "non-traditional") as dangerous.

The appeal calls on the UN Human Rights Committee to declare Geller's punishment for exercising his right to freedom of religion or belief a violation of his rights under the ICCPR, and to affirm his right to exercise freedom of religion or belief without fear of criminal or administration punishment. It also calls for the Human Rights Committee to recommend that Kazakhstan change the Religion Law to end the requirement that religious communities can only exercise freedom of religion or belief with state

permission. Geller also asks the Human Right Committee to recommend an end to the Kostanai Administration's unlawful demands that it be notified before each Hare Krishna meeting.

### ***UN Special Rapporteur on Freedom of Religion or Belief***

UN Special Rapporteur on Freedom of Religion or Belief Heiner Bielefeldt criticised the government's demand for state permission to exercise human rights at the end of his March-April visit to Kazakhstan. "Registration procedures should in any case be based on the clear understanding that freedom of religion or belief, due to its nature as a human right, inheres to all human beings and can never be rendered dependent on any specific acts of State approval or administrative registration. (...) registration should be an offer by the State, not a mandatory legal requirement".

He noted that: "A main problem concerning the administration of religious registration is that non-registered religious groups can hardly exercise any collective religious functions in Kazakhstan". Continuing, he observed that: "Any of their activities, even the common performance of prayers and rituals in private homes, are deemed illegal and can incur serious administrative sanctions."

UN Special Rapporteur Bielefeldt also stated that during his 11-day visit, he had heard "credible stories about police raids in the premises of some non-registered groups, leading to confiscation of literature, computers and other property" (see F18News 22 April 2014 [http://www.forum18.org/archive.php?article\\_id=1950](http://www.forum18.org/archive.php?article_id=1950)).

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## **One three-year jail term, 5 or 25 more to follow?**

Forum 18 (12.12.2014) - Secrecy surrounds the criminal trials of members of the Muslim missionary movement Tabligh Jamaat, which was banned as "extremist" in Kazakhstan in 2013. Mamurzhan Turashov, a 41-year-old father of five, was given a three-year prison term on 2 December in South Kazakhstan Region. But neither the court, the prosecutor, the Judicial Expertise Institute which conducted "expert analyses" of religious books seized from him, nor even his defence lawyer were willing to make public the verdict or the "expert analyses". All were also unwilling to tell Forum 18 News Service what Turashov had done wrong, apart from Tabligh Jamaat membership.

A similar criminal trial began in Taldykurgan in Almaty Region on 9 December of five apparent Tabligh Jamaat adherents – Bakyt Nurmanbetov, Aykhan Kurmangaliyev, Sagyndyk Tatubayev, Kairat Esmukhambetov and Ruslan Kairanov. Neither prosecutors nor the judge hearing the case, nor other court officials, were prepared to say anything about it to Forum 18 apart from acknowledging that the trial was underway.

Turashov and the five defendants in Taldykurgan were prosecuted under Criminal Code Article 337-1. This punishes "Organising or participating in the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out". Punishment is a fine or imprisonment of up to six years. From 1 January 2015 Article 337-1 will be replaced by an almost identical Article 405, as part of a change to a new Criminal Code (see F18News 9 July 2014 [http://www.forum18.org/archive.php?article\\_id=1976](http://www.forum18.org/archive.php?article_id=1976)).

Police announced through the local media on 26 November that 20 suspected Tabligh Jamaat adherents had been detained in Almaty, Kazakhstan's commercial capital.



However, no information was given about their names, whether they are still in detention, or whether any or all will face administrative or criminal prosecution.

### ***Breaking international law***

Kazakhstan insists that religious communities can only exist or function if they have the state's permission, in defiance of its international human rights obligations. This has a strong impact on Muslims. The government has allowed only one Muslim religious community in all of Kazakhstan to gain state registration: the state-backed Muslim Board. Only mosque communities under its control are allowed to function, even though nowhere in the country's published law is this stated.

All other Muslim communities and organisations – including Tabligh Jamaat, Ahmadi Muslim congregations, independent mosques (such as the Tatar-Bashkir mosque in Petropavl), and mosques catering to specific ethnic communities (such as Azerbaijanis, Chechens, or Uighurs) – are banned from exercising their right to freedom of religion or belief (see Forum 18's religious freedom survey of Kazakhstan [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

### ***Three-year sentence – for what?***

Turashov, from the village of Karabulak in Sairam District of South Kazakhstan Region, was accused of distributing religious literature that had not been censored by the state at a mosque or prayer room he had built in his village, as well as membership of Tabligh Jamaat knowing it had been banned. Pictures on local TVK television channel of what must have been a police raid showed copies of two Russian-language Muslim books, Gardens of the Righteous and Attainment of the Objective According to Evidences of the Ordinances by al-Hafidh ibn Hajar al-Asqalani.

Very strict state censorship of all religious literature and the places it can be distributed is imposed in Kazakhstan. All Islamic literature that is not Sunni Hanafi is banned (see Forum 18's religious freedom survey of Kazakhstan [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

Press reports said the Sairam District Akim (administration head) had given Turashov's wife Zeynolla Shakirova a plot of land in 2009 to build a mosque or prayer room. Turashov led prayers for villagers once it was built. Reports claimed that the local police officer had officially warned him that Tabligh Jamaat was banned, with criminal penalties for members of it.

On 27 November, Timeskz news website, quoting the prosecution, cited alleged rumours that Turashov (who was not named in the article) had begun calling in his mosque for the "mass Islamisation of Kazakhstan" and the "creation of a caliphate" (an Islamic-ruled political entity) following his return from a six-week visit to Bangladesh in early 2014. "The information was of interest to the special services [the KNB secret police]," the website claimed. "The rumours were confirmed." It said "expert analyses" of Turashov's sermons had confirmed this.

The Department for the Struggle with Economic Crime and Corruption opened a case against Turashov under Criminal Code Article 337-1, Part 1, which bans the creation or leadership of a banned group. The case was then handed to Sairam District Police, where it was investigated by Captain Talat Dauletbashov. Orynbasar Sengirbayev of the District Prosecutor's Office led the case in court.

After an initial hearing on 25 November, Judge Talgat Ongarbayev of Sairam District Court handed down the guilty verdict on 2 December, the Court Chancellery told Forum 18 on 8 December. Turashov was given a three-year ordinary regime labour camp

sentence. The Chancellery official – who would not give his name – said Turashov has not appealed against the sentence, and is still being held in the Investigation Prison in the regional capital Shymkent.

The Chancellery official said about 400 books had been confiscated from Turashov. "The expert analyses found they were propaganda for Tabligh Jamaat," he insisted to Forum 18. "They called for war against civilians who don't pray or go to mosque and against kafirs [unbelievers]." Asked for examples, the official then admitted he had not read the verdict.

Forum 18 repeatedly asked the official to send a copy of the verdict, but had not received it by the late afternoon in Kazakhstan of 12 December. The official refused to put Forum 18 through to Judge Ongarbayev.

Judge Ongarbayev told the local TVK television channel on 3 December that a criminal case had originally been opened against a second person, whom he did not name. But this had been closed at the investigation stage and that only Turashov had been brought to trial.

The deputy head of the South Kazakhstan Regional Justice Department's Institute of Judicial Expertise in Shymkent, which had conducted the "expert analyses" in Turashov's case, said he could give no information about them. "Only the person who commissioned the analyses can speak about them, according to the law," the deputy head – who refused to give his name – told Forum 18 from Shymkent on 11 December. He also refused to say how often his Institute conducts "expert analyses" of religious texts or recordings.

Bakyt Akhimbetov, deputy head of the Regional Religious Affairs Department, told Forum 18 on 9 December that he had no information about the case against Turashov. He stressed that his Department has had no involvement in "expert analyses" since the Department was subordinated not to the former Agency of Religious Affairs but to the Regional Administration. He could not recall any disputes over Turashov's mosque in Karabulak.

### ***"Acknowledged his guilt completely"?***

Turashov's lawyer was Zhaksybek Rysbekov, though Forum 18 has been unable to establish if he was appointed by the court or by Turashov. Rysbekov told Forum 18 on 10 December that his client had "acknowledged his guilt completely" in court that he was knowingly a member of Tabligh Jamaat which had been banned through the courts.

Asked whether claims in the media that Turashov had called for the "Islamisation of Kazakhstan" and the "establishment of a caliphate" were true or not, Rysbekov did not respond. Nor would he respond to a direct question as to whether his client had or had not advocated violence. He also refused to say whether Turashov is or is not a dangerous person.

But Rysbekov insisted that the criminal case had been thoroughly investigated. "The case files came to two or three volumes," he told Forum 18. He said this included up to ten "expert analyses" conducted by the South Kazakhstan Regional Justice Department's Institute of Judicial Expertise in Shymkent. He would not say if the analyses were only of books confiscated from Turashov or also of recordings of his sermons or addresses in the mosque.

"There are also organs that watched Turashov, and not all information was given in court," Rysbekov added. Asked which "organs" he meant and whether he was referring to

the KNB secret police, he responded: "I don't know." Asked why not all the alleged evidence had been presented in court, Rysbekov did not respond.

Rysbekov dismissed any concerns about the prison term. "Turashov has not instructed me to lodge an appeal," he told Forum 18. "He got a three-year term, but will be out no doubt after a year."

### ***Prosecutor refuses to answer questions***

Forum 18 was unable to reach police Captain Dauletbashov who investigated the case and was present in court during the trial. His phones repeatedly went unanswered on 11 December, as did that of Sairam District Police Investigation Department.

Deputy Prosecutor Sengirbayev, who led the prosecution case in court, refused to answer any of Forum 18's questions on the case. "I don't have the documents to hand, and besides they are all in Kazakh," he told Forum 18 on 9 December. Called on 10 and 11 December, he repeatedly refused to say whether Turashov had called for violence in his sermons or whether any of the books confiscated from him incited violence.

### ***Taldykurgan trial***

At least two of the five apparent Tabligh Jamaat adherents now on trial in Taldykurgan in Almaty Region – Nurmanbetov, Kurmangaliyev, Tatubayev, Esmukhambetov and Kairanov – were arrested and held in court-ordered pre-trial detention since September.

Megdat Kabdylkairov, head of the Department for Ensuring Legality in the Sphere of Countering Extremism and Terrorism of the Regional Prosecutor's Office, announced on its website on 24 September that the arrest of two "active" Tabligh Jamaat members – who remained unnamed – had prevented "illegal activity". He described Tabligh Jamaat as a "dangerous organisation".

Kabdylkairov noted that a case had been opened against the two under Criminal Code Article 337-1, Part 2, which punishes participation in a banned organisation.

Kabdylkairov refused to answer any questions on the case. "I'm on holiday and can't give any commentary," he told Forum 18 on 10 December, the day after the first court hearing. He referred Forum 18 to his colleagues in the Department. Reached the same day, one of his colleagues, who gave his name only as Dastan, said the case was now in Taldykurgan City Court and refused to discuss it further.

The case against the five reached the court on 25 November, and was assigned to Judge Sara Zhanbyrbayeva. The first hearing in the case was held on the morning of 9 December, according to court records. The Judge's assistant confirmed to Forum 18 on 11 December that all five defendants are being prosecuted under Criminal Code Article 337-1, Part 2. He declined to say when the case is due to resume or give any other information. Judge Zhanbyrbayeva confirmed to Forum 18 the same day that the trial is continuing, but she too refused to discuss the case.

Forum 18 has been unable to identify the investigator in the case or the men's lawyer or lawyers.

### ***20 still detained or now free?***

In the third known current Tabligh Jamaat-related case, Forum 18 has been unable to find out if the 20 alleged members held in the southern city of Almaty in late November have been freed or remain in detention. It is also unclear whether any or all will face administrative or criminal prosecutions.

Saltanat Azyrbek, acting head of Almaty Police Press Service, totally refused to give Forum 18 any information by telephone on 11 December, insisting that questions must be in writing. Forum 18 had not received any response to its written questions by late afternoon in Almaty of 12 December.

### ***Tabligh Jamaat banned as "extremist" in February 2013***

Tabligh Jamaat was founded in British India in 1927 to encourage greater piety among Muslims. It has always claimed to avoid violence and political activity. In Central Asia its members conduct house to house encouragement of Muslims to attend mosques and religious talks. The movement also sends members on short-term missions to other towns and villages, where they sleep in mosques and address local Muslims, both door to door and in the mosque. Male adherents are often identifiable by their beards and South Asian clothing. A close observer of Tabligh Jamaat in the region told Forum 18 that adherents in Kazakhstan follow this approach.

In addition to mission trips within the country, adherents from Central Asia often visit Tabligh Jamaat centres in Pakistan (though obtaining visas is now difficult), India and Bangladesh.

Tabligh Jamaat members – like Jehovah's Witnesses and Council of Churches Baptists – have long been subjected to administrative fines in Kazakhstan for preaching their faith without personal registration as missionaries (see eg. F18News 21 May 2014 [http://www.forum18.org/archive.php?article\\_id=1960](http://www.forum18.org/archive.php?article_id=1960)).

The movement is also banned in some other former Soviet states as officials claimed it was "extremist", normally without defining exactly what this means. The first ban was by the Supreme Court in Tajikistan in March 2006 (see F18News 15 May 2009 [http://www.forum18.org/archive.php?article\\_id=1297](http://www.forum18.org/archive.php?article_id=1297)). This was followed by Russia, where the Supreme Court banned it as "extremist" in May 2009 (see Forum 18's Russia "extremism" religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1724](http://www.forum18.org/archive.php?article_id=1724)). Uzbekistan's Interior Ministry told Kazakhstan's Interior Ministry in March 2012 that Tabligh Jamaat had also been banned there. (All public manifestations of Islam outside the state-controlled Spiritual Administration of Muslims is banned – see Forum 18's Uzbekistan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1862](http://www.forum18.org/archive.php?article_id=1862)). Kyrgyzstan's Security Council recommended in 2009 that the Supreme Court consider banning Tabligh Jamaat, though this has not happened (see F18News 27 February 2014 [http://www.forum18.org/archive.php?article\\_id=1932](http://www.forum18.org/archive.php?article_id=1932)).

### ***No prior public announcement, no evidence***

On 26 February 2013 in Kazakhstan, without prior public announcement, Judge Kuanish Zhaksybergenov of Astana's Saryarka District Court granted Astana City Prosecutor's Office suit to have Tabligh Jamaat banned throughout Kazakhstan as "extremist", according to the decision seen by Forum 18. The prosecutor claimed – without making any evidence public – that the group's "real aim" was the seizure of territory and creation on it of a caliphate, "including in Kazakhstan", which "presumes a violent change to the constitutional order". The ban was backed in court by the KNB secret police and the Interior Ministry. The government's then Agency of Religious Affairs was happy to leave the decision to the Court.

The decision cites no violence or other human rights violations conducted by any named or unnamed Tabligh Jamaat adherents in Kazakhstan, Russia, Uzbekistan, Tajikistan or

any other country. Nor does it cite any named or unnamed adherents in these countries making any specific incitement to violence.

Judge Zhaksybergenov's decision gives prominence to the bans in Tajikistan, Uzbekistan, and Russia. It also states that Tabligh Jamaat has acted illegally in Kazakhstan because it does not have state registration and notes the numerous administrative punishments handed down to adherents (20 in the first half of 2012).

During the 40-minute hearing, according to the official record seen by Forum 18, Interior Ministry official Darkhan Razuyev noted that one Tabligh Jamaat stronghold in Kazakhstan was in the village of Masanchi in Jambyl Region, which is mainly populated by Dungans (members of a traditionally Muslim ethnicity of Chinese origin). He feared that "attracting a large number of this ethnic group into the ranks of this non-traditional religious movement could in future lead to a complication of the religious situation, the active distribution of extremist and separatist ideology, and, as a result, a threat to the national security of the country". He gave no evidence for his fears.

All ethnic-based and other independent mosques have been forcibly closed by the state (see Forum 18's religious freedom survey of Kazakhstan [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)). Those who do discuss the issue of ethnic-based mosques indicate very strongly that they are fearful of state reactions (see eg. F18News 4 November 2010 [http://www.forum18.org/archive.php?article\\_id=1506](http://www.forum18.org/archive.php?article_id=1506)).

Razuyev of the Interior Ministry claimed to the court that many Tabligh Jamaat members had been punished with administrative fines. These included one punishment under Administrative Code Article 344, Part 4, which punishes: "Production, storage, import, transport and distribution" of non-media publications containing "propaganda or agitation for a violent change to the constitutional order, violation of Kazakhstan's territorial integrity, subversion of state security, war or the incitement of social, racial, ethnic, religious, class or clan discord, the cult of brutality, violence and pornography". Punishments range between fines of 50 to 200 Monthly Financial Indicators (MFIs) or up to 15 days' imprisonment. In that case, the court in Jambyl Region in 2012 handed down a fine of 2 MFIs. Razuyev did not identify the books and discs alleged to be "extremist".

Administrative Code Article 344, Part 4 has recently been used to sentence two Baptists to 10-day prison terms for having an allegedly "extremist" book (see F18News 10 October 2014 [http://www.forum18.org/archive.php?article\\_id=2005](http://www.forum18.org/archive.php?article_id=2005)).

The other cases Razuyev of the Interior Ministry claimed to the court were associated with Tabligh Jamaat members were: 28 people punished in 2011 for distributing uncensored religious literature; 60 cases in 2012 of people conducting missionary activity without personal registration as a missionary, after which about 400 people were detained with many subsequent fines; some individuals not living at their registered address; and four foreign nationals violating unspecified rules for foreigners living in Kazakhstan, presumably as they exercised their freedom of religion or belief without state permission.

### ***No "extremist, terrorist, or any other calls against Kazakhstan's laws"***

Agency of Religious Affairs official Erkinbek Shokhayev alleged that Tabligh Jamaat conducted terrorist activity but gave no evidence for his claim. KNB secret police official Igor Bisimbayev claimed that the existence of a Muslim organisation, conducting its own missionary activity, as a rival to the state-backed Muslim Board "could create in the country an alternative religious structure to the official clergy". He did not explain why only one Muslim organisation should exist.

Bisimbayev of the KNB secret police admitted that all the judicial "expert" analyses had confirmed that none of the literature used by Tabligh Jamaat contained "extremist, terrorist, or any other calls against Kazakhstan's laws". However, he claimed that simply because the group's headquarters are abroad, "ALL [emphasis in original] their activity could be characterised as subversive in the ideological sphere, forming in the population anti-social or anti-civil positions".

### ***No appeal against ban allowed***

Local resident Erbolat Omarbekov tried to challenge the court-ordered ban, regarding it as "illegal". However, on 8 April, Saryaka District Court refused to add him as a party to the case to allow him to challenge the ban. On 21 May 2013 Judge Maksim Kaldygulov of Astana City Court upheld this decision, according to the ruling seen by Forum 18. He argued that Omarbekov had no standing to challenge the decision as he had not been a party to the February 2013 case.

No way seems to exist for anyone or any organisation – apart from the state agencies which were party to the original case – to legally challenge the ban.

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## **"New forms of countering religious activity by non-traditional religious movements"**

Forum 18 (14.10.2014) - In a secret mid-September letter, a Deputy Prosecutor of East Kazakhstan Region instructed regional administration and health care officials to "counter" the activities of "non-traditional" religious communities using "new forms and methods". He identifies Baptist and Pentecostal Churches and the Jehovah's Witnesses among such communities. Officials are ordered to inform the Prosecutor's Office when any religious community – whether "non-traditional" or not - seeks to establish a health-related centre. Officials have categorically denied to Forum 18 News Service that this two-page Russian-language letter – of which Forum 18 has a copy - exists.

The letter comes as police in the north-eastern Pavlodar Region appear to be trying to close down a Protestant-run rehabilitation centre for alcohol and drug-dependent individuals. Police raided the centre in July, sent a brochure for an "expert" analysis, questioned the centre's use of its building and are seeking to punish the centre's overseer for holding prayers there without the compulsory state permission (see below).

The Prosecutor's Office letter and the moves against another rehabilitation centre echo the wide-ranging state-backed campaign against smaller religious communities about the time the harsh new Religion Law was adopted in 2011. Prominent in these measures were state-funded so-called anti-sect centres, and attacks by officials on so-called "non-traditional" beliefs, which members of many religious communities state encouraged public hostility through statements in the state-controlled national and local media (see Forum 18's Kazakhstan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

### ***Harsh Religion Law "one of the important achievements"?***

Kazakhstan's government is preparing to defend its human rights record at its Universal Periodic Review at the United Nations Human Rights Council in Geneva on the morning of 30 October (<http://www.ohchr.org/EN/HRBodies/UPR/Pages/KZSession20.aspx>). In its 16 September submission to the UPR (A/HRC/WG.6/20/KAZ/1), Kazakhstan described

the adoption of the harsh 2011 Religion Law as "one of the important achievements in the area of religion".

In defiance of the country's international human rights commitments, the Religion Law bans meeting for worship, printing, publishing or distributing literature about religion or talking to others about religious themes without prior state permission. Punishments for those who defy such state controls are frequent (see Forum 18's Kazakhstan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

### ***Secret instruction***

Nurlan Bizhanov, a Deputy Prosecutor of East Kazakhstan Region, wrote in mid-September to the head of administration of the Regional Akimat (administration), Yerzhan Zhilkibayev, and the head of the regional Health Department, Vadim Ovsyannikov, to warn about the "activity of non-traditional religious movements which is not declining". Among such communities Bizhanov identified were Grace Church, New Life Church, the Baptists and Jehovah's Witnesses. He claimed that these groups "often come into conflict with traditional religions". He claimed that worldwide, the activity of such communities is increasing and growing ever more "destructive".

No definition of "traditional" or "non-traditional" religions appears to exist in Kazakhstan's published laws, nor any requirement that religious communities be treated differently depending on how "traditional" they are claimed to be. Indeed, Article 3 of the Religion Law notes that religious associations are equal before the law.

Bizhanov particularly complains that in Kazakhstan "for various reasons (social, economic, political or ethnic), young people, the socially undefended and those not established in life with low religious literacy fall into the orbit" of such "non-traditional" communities.

He insists that because of this, "new forms and methods of countering religious activity by non-traditional religious movements need to be prepared and implemented". This should be "based on the coordination of efforts by all local executive, law-enforcement, special and plenipotentiary state organs, together with civil society institutions".

### ***Helping addicts = "worldwide threat"?***

Bizhanov gives a local example of the "worldwide threat" from such "non-traditional and destructive" religious activity: the alleged acquisition of a house in the village of Cheremshanka in Glubokoe District by the "non-traditional" religious association, Spring Baptist Church, based in the city of Oskemen (Ust-Kamenogorsk). The Deputy Prosecutor claims the church bought the house in August with the aim of turning it into a rehabilitation centre for those suffering from alcohol or drug addiction. He insisted that, "according to operational information", local people oppose the plan.

Opening such a centre "would facilitate hidden agitation of citizens with the aim of attracting them into a non-traditional religious channel", Bizhanov claimed. He noted with alarm that "potential parishioners" who could be attracted to join the Baptists would not only be the addicts being helped, but students at a nearby college residence, as well as visitors to a medical centre and a sports field.

Spring Baptist Church insisted to Forum 18 from Oskemen on 14 October that it has not bought a house in Cheremshanka and has no plans for a rehabilitation centre there.

Bizhanov notes that activity such as opening a rehabilitation centre needs a state licence, so when any such applications arrive from "non-traditional" and "other religious associations" it is "necessary immediately to inform the Regional Prosecutor's Office to gain [its] approval". He added that the Akimat is to inform all its sub-divisions and

agencies of the necessity of carrying out these instructions, including when such religious groups seek to buy property.

### ***Why was instruction secret?***

The Deputy Prosecutor's letter contains at the top the Russian abbreviation for "For official use". This is despite the fact that the Rules on Recording, Use and Storage of Documents, Files and Editions of Restricted Distribution, approved by a 29 August 2000 Decree signed by the head of the Agency for Protecting State Secrets, does not allow such a restricted distribution. Article 2 of the Rules includes the provision: "Applying restricted distribution to information touching on the rights, freedom and obligations of citizens is banned."

After checking, Bekzat Sakigozhina, head of administration at North Kazakhstan Region Health Department, confirmed that Bizhanov's letter had not been registered on arrival along with other incoming documents. "But if the letter was for official use only, Vadim Ovsyannikov wouldn't have given it to me," she told Forum 18 on 14 October.

### ***"We wouldn't have written such a letter"***

Although the letter notes at the bottom that it was drafted on Bizhanov's behalf by Yershad Turysbayev, he insisted to Forum 18 on 8 October: "We didn't write such a letter." When Forum 18 read out extracts from it, Turysbayev responded: "We wouldn't have written such a letter." He refused to discuss the letter further.

Forum 18 was unable to find out from the General Prosecutor's Office in the capital Astana whether Bizhanov's letter was lawful. Iogan Merkel, a Deputy Prosecutor General, was ill in hospital, his aide told Forum 18 on 13 October. The aide – who did not give his name – refused to discuss the letter. So too did Alzhan Nurbekov, deputy head of the International Department there.

Zhilkiabayev, head of administration of the East Kazakhstan Regional Akimat and one of the addressees, was unavailable each time Forum 18 called. However, an aide – who did not give his name – confirmed to Forum 18 on 13 October the Russian abbreviation for "For official use". But he too refused to discuss the letter, claiming "I don't have it".

Despite repeated calls, Forum 18 was unable to reach the second addressee, Ovsyannikov of the Health Department. One of his deputies – Zhanaly Alipbayev – told Forum 18 on 13 October that had not seen the letter, though added that he deals with economic issues. When Forum 18 read out extracts from the letter, Alipbayev responded: "I think this is against the law. But one would need to see the justification for it."

### ***Rehabilitation Centre raided, investigated***

Meanwhile, a police "investigative operational group" raided a Pentecostal-led drug and alcohol rehabilitation centre in the town of Aksu in Pavlodar Region on 6 July. They were responding to an alleged complaint by a local resident that a "sect" was operating there, according to the 9 July police decision not to launch a criminal case, seen by Forum 18. Officers inspected, filmed and photographed the centre. They also seized a copy of a 48-page booklet "His Name is Love".

The police noted that the six male residents – who live there voluntarily – conduct household work at the centre and "study the Bible and pray twice a day". They also noted that the Pavlodar-based Jesus Christ Pentecostal Church bought the house where the centre is located in August 2013.

Police wrote to Pavlodar Region Territorial Land Inspection to check whether the building



is being used for its purpose. Forum 18 has been unable to find out if the Land Inspection has yet taken any measures.

On 8 July, police also requested a judicial/psychological/philological "expert" analysis of the seized booklet from the Justice Ministry's Central Institute of Judicial Expert Analysis in Astana.

The expert at the Central Institute, Sholpan Sisimbayeva, refused to answer three of the police questions about the booklet, saying they did not form a proper part of such an analysis. She reformulated the other two questions into one: whether the booklet contained incitement to religious or other enmity or maintained the superiority of one faith over another.

Sisimbayeva's six-page 12 August analysis, seen by Forum 18, was clear. The booklet "His Name is Love" contains "no statements of an arousing nature, calling for an incitement to religious and ethnic enmity, the superiority of one religion over another or statements of the superiority of citizens because of their attitude to religion".

The Central Institute charged the Aksu police for the "expert analysis" 26,917.2 Tenge (950 Norwegian Kroner, 115 Euros or 150 US Dollars), according to the accompanying letter.

### ***Administrative case***

Unable to prosecute the centre or any individual over the seized booklet, on 29 September Police officer Rizabek Bilyalov launched an administrative case against the centre's church overseer, Vladimir Styopin. He sought to punish him under Administrative Code Article 374-1, Part 1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation"), according to the record of an "offence" seen by Forum 18. Styopin has signed the record adding that he "does not agree with it".

More than 150 such administrative fines are known to have been handed down across Kazakhstan in 2013, and nearly 50 in the first ten weeks of 2014 alone (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

The case was sent to Aksu Specialised Administrative Court. However, on 7 October, Judge Gulnar Mukhametkaliyeva sent back the case to the police as it had not been properly documented, according to the decision seen by Forum 18.

Bilyalov refused absolutely to discuss the case with Forum 18 on 13 October and put the phone down.

### ***More pressure to come?***

"At the moment there is a case only against me as an individual," the centre's overseer, Styopin, told Forum 18 on 14 October. But he fears that if he is punished, the authorities will use the conviction to close down not only the rehabilitation centre but possibly the Church too. "I demand that officials defend my rights and halt this case."

Styopin added that he had that day lodged a civil suit against the police in court, asking that their actions be declared illegal. He insists that as the Church has state registration and the Church set up the rehabilitation centre, any activity there is covered by the Church's registration.

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## **Ten days' imprisonment for "extremist" book**

Forum 18 (10.10.2014) - Two Council of Churches Baptists were each sentenced to ten days' imprisonment in Kazakhstan's Akmola Region on 6 October for offering to passers-by copies of a religious book which a religious "expert analysis" controversially claimed incited religious hatred, fellow Baptists told Forum 18 News Service. The two men – Vyacheslav Cherkasov and Zhasulan Alzhanov – were also each fined about four months' average wages for those in work for again offering religious literature to others on the street without the required state permission for distributing religious literature.

The ten-day prison terms were handed down after an official of the government's then Agency of Religious Affairs (ARA) in the capital Astana found the book "Jesus: More than a Prophet" contains "elements inciting religious hatred and discord". The book – a Russian translation of an English-language collection of essays by 15 Muslims who became Christians – was edited by Richard Wootton.

These are the second short-term prison terms for Cherkasov and Alzhanov in 2014. They were among 14 people already known to have been sentenced so far in 2014 to up to ten days' imprisonment to punish them for refusing to pay earlier fines for exercising their right to freedom of religion or belief (see F18News 8 October 2014 [http://www.forum18.org/archive.php?article\\_id=2004](http://www.forum18.org/archive.php?article_id=2004)).

### ***Unpublicised court bans, "recommendatory" bans***

A growing – but unknown – number of religious publications and web pages by Muslim, Protestant and Jehovah's Witness authors are being banned in court as "extremist", Forum 18 notes. Such court decisions are often not publicised and therefore impossible to challenge.

Officials have repeatedly refused to publish a list of religious items they have banned. Without knowing that a court-ordered ban on a specific work has been imposed, individuals often first learn of such bans when police or Prosecutor's Office officials tell them.

Forum 18 has been unable to find out if the book "Jesus: More than a Prophet" has been banned by a court.

In addition to court-ordered bans, the government's then ARA also refused permission to print or import numerous religious publications. (The ARA was replaced in August by the Culture and Sport Ministry's Religious Affairs Committee.)

Jehovah's Witnesses have repeatedly tried – and failed – through the courts to overturn the 14 import bans imposed on their publications. However, they note that officials have imposed no new import bans in 2014 (see below).

Although Religious Affairs officials repeatedly claim that such decisions are "recommendatory", without their approval no religious work can be published, printed or imported.

### ***"Inciting religious hatred"?***

Trouble began for Cherkasov and Alzhanov on 10 May as they were offering Christian literature on the street near the market in Shchuchinsk in Akmola Region. Several police officers came up to them and seized all 252 books they had with them, local Baptists complained to Forum 18.

Police later sent 44 titles, including "Jesus: More than a Prophet", to the then ARA in Astana. On 13 June, Asel Kuzembayeva of the ARA's Religious "Expert" Analysis

Department produced her 14-page "expert" analysis of the books, declaring that only one was illegal. She alleged that "Jesus: More than a Prophet" contains "elements inciting religious hatred and discord", Kuzembayeva's colleague at the Religious Affairs Committee – who did not give his name – confirmed to Forum 18 from Astana on 9 October.

The colleague told Forum 18 that Kuzembayeva is on leave until 1 November. He refused to pass on a copy of Kuzembayeva's analysis and refused to discuss the state censorship of religious literature. Prosecutor's Office officials in Shchuchinsk also refused to pass on a copy or discuss the case the same day.

On 30 September, Police drew up records of an offence under two Administrative Code Articles: Article 375, Part 9 (which punishes repeat "offences" under other parts of Article 375 within one year); and Article 344, Part 4 (which punishes "production, storage, import, transport and distribution" of non-media publications containing "propaganda or agitation for a violent change to the constitutional order, violation of Kazakhstan's territorial integrity, subversion of state security, war or the incitement of social, racial, ethnic, religious, class or clan discord, the cult of brutality, violence and pornography" with fines for individuals using their official capacity of 50 to 200 Monthly Financial Indicators (MFIs) or up to 15 days' imprisonment).

In two separate hearings for each man on 6 October, Judge Damir Shamuratov of Burabai District Administrative Court found Cherkasov and Alzhanov guilty under both Articles, according to court records. He fined each 200 MFIs under Article 375, Part 9. He sentenced each to ten days' imprisonment under Article 344, Part 4. The literature was ordered confiscated and handed to the Regional Religious Affairs Department.

This is the sixth time Cherkasov has faced administrative trial, and the fourth for Alzhanov, local Baptists complained to Forum 18. They call for an end to "persecution of our brothers for trying to serve God in the way the Holy Scriptures teach". Both men were given two-day prison terms in January for refusing to pay earlier fines to punish them for exercising their right to freedom of religion or belief (see F18News 28 January 2014 [http://www.forum18.org/archive.php?article\\_id=1921](http://www.forum18.org/archive.php?article_id=1921)).

### ***Earlier "extremist" literature prosecution***

Following October 2012 raids on a Baptist church and the Bible League in Astana, Bible League's head Igor Voronenko and Baptist pastor Gennadi Vrublevsky were accused of distributing "extremist" literature under Administrative Code Article 344, Part 4. In December 2013, Astana's Specialised Inter-District Administrative Court found them guilty and fined each 50 MFIs. The two men chose not to appeal against the judgments and reluctantly paid the fines (see F18News 6 January 2014 [http://www.forum18.org/archive.php?article\\_id=1912](http://www.forum18.org/archive.php?article_id=1912)).

Voronenko was accused of having in his computer two "extremist" Russian-language works: "Conversation with Muslims about Christ 1, 2, 4, 5, 6, 7, and 8", and "How to Talk to Muslims about the Gospels". Prosecutors insisted that a March 2013 "expert analysis" had found that these works "contain signs of ethnic and religious hatred and enmity and statements on the superiority of the Christian religion and the inferiority of the Islamic religion".

Voronenko told the court he did not know that these texts had been banned and that having them in his computer was illegal. The court ordered that in addition to his fine, his computer should be reformatted to remove all material on it before it is returned to him.

Pastor Vrublevsky was accused of possessing five "extremist" books, four in Russian and one in Kazakh: "Healing the Broken Family of Abraham" by American Protestant Don

McCurry and "Israel and the Kingdom of Islam" by the late German Protestant Ernst Schrupp, as well as "The Call for the Great Commission", "Islam and Occultism" and "Questions which Demand an Answer".

The court decision said a September 2013 "expert analysis" (replicating the comments in the March 2013 analysis) had found that the books "contain signs of ethnic and religious hatred and enmity and statements on the superiority of the Christian religion and the inferiority of the Islamic religion".

### ***Already banned***

The publication, import and distribution in Kazakhstan of the Russian translation of "Healing the Broken Family of Abraham" were banned on 22 November 2012 by Almaty's Almaty District Court No. 2. It found that the book contains "elements of incitement to religious hatred and discord" (see F18News 9 October 2013 [http://www.forum18.org/archive.php?article\\_id=1885](http://www.forum18.org/archive.php?article_id=1885)).

Possession of this book and another Christian book "New Life for Muslims" allowed prosecutors to bring two counts of "extremism" under Criminal Code Article 164, Part 2 against Astana-based retired Presbyterian pastor Bakhytzhan Kashkumbayev. Although these charges were withdrawn at his first criminal case, prosecutors appear still to be investigating them (see F18News 9 July 2014 [http://www.forum18.org/archive.php?article\\_id=1976](http://www.forum18.org/archive.php?article_id=1976)).

On 25 February, Judge Maiya Galiyeva of Astana's Saryarka District Court found a book at least partly written by Salafi Muslim Mohammed ibn Abdul-Wahhab "extremist", according to the decision seen by Forum 18. The book - a Russian translation of the work "Explanation of the Three Fundamental Principles of Islam" - is 543 pages and was published in Cairo in 2008. Mohammed ibn Abdul-Wahhab helped found a precursor to the present-day kingdom of Saudi Arabia.

The suit was lodged after 54 copies of the book arrived at the Kazakh post office on 5 August 2013 for Astana resident Aidos Akhmetov. A 12 October 2013 "judicial/psychological/philological expert analysis" by the Justice Ministry's Central Institute of Judicial Expertise claimed that the book incited "religious hatred and discord", particularly against Jews and Christians.

The suit had been brought by Akmolta Transport Prosecutor's Office and the case also involved the National Security Committee secret police, the Interior Ministry, the Justice Ministry, the Transport Ministry and the then ARA (see F18News 6 January 2014 <[www.forum18.org/archive.php?article\\_id=1912](http://www.forum18.org/archive.php?article_id=1912)>).

### ***Nearly banned***

However, not all attempts to ban religious publications succeed, Forum 18 notes. Astana's Prosecutor tried to ban as "extremist" a Kazakh translation of the Turkish book "The Religion of Islam" by Osman Karabiyik. Two "expert analyses" it ordered - of 11 July 2011 and 20 March 2012 - found "signs of extremism" in this and another work. A 21 December 2012 "expert analysis", by contrast, failed to find any "extremism".

On 25 December 2012, Astana's Saryarka District Court rejected the Prosecutor's suit. The Prosecutor appealed against the decision. At a 13 June 2013 hearing at Astana Appeal Court, the original rejection of the suit was upheld. At both hearings, ARA "specialists" insisted that the books did not contain incitement to hatred on grounds of religion, social origin or ethnicity (see F18News 6 January 2014 <[www.forum18.org/archive.php?article\\_id=1912](http://www.forum18.org/archive.php?article_id=1912)>).

## **Magazines and booklet banned**

In line with state requirements, Jehovah's Witnesses submitted to the then ARA a copy of the Kazakh and Russian translations of their booklet "Examining the Scriptures Daily – 2014", which Jehovah's Witnesses use each day through the year. They asked for the necessary approval to import copies.

On 24 December 2013, Lyudmila Stefoglo of the then ARA's International Centre of Cultures and Religions in Astana produced her seven-page "expert" analysis of the Russian-language booklet, seen by Forum 18. The analysis declares that Jehovah's Witnesses "are non-traditional for Kazakhstan and bear no historical, social or cultural significance for Kazakh society". Despite official assertions that state-imposed bans are not based on theological assessments, Stefoglu asserts in justification of her negative assessment that the brochures "reject the fundamental teachings of Christianity".

On 31 December 2013, in a letter also seen by Forum 18, the ARA refused permission to import the booklet, citing many of the objections raised by Stefoglo.

Jehovah's Witnesses tried to challenge this import denial through the courts, as they had (in vain) over earlier import denials. However, on 3 June, in a decision seen by Forum 18, Judge Zhanna Li of Astana's Inter-District Specialised Economic Court rejected their suit. During the hearing, Jehovah's Witnesses had pointed out that Article 20, Part 1 of Kazakhstan's Constitution specifically bans censorship.

On 30 July, in a hearing presided over by Judge Gulmira Kazhenova, Astana City Court rejected the Jehovah's Witness appeal against the Economic Court decision.

Other Jehovah's Witness suits against the then ARA over import denials have similarly ended in failure. On 4 September a panel of three judges at Kazakhstan's Supreme Court in Astana finally rejected another Jehovah's Witness suit which had initially been rejected by Astana's Inter-District Specialised Economic Court in July 2013.

In that suit, Jehovah's Witnesses had tried to overturn a ban on various issues of the magazine "Watchtower" in Kazakh and Russian, as well as "Examining the Scriptures Daily – 2013". All had been banned following an "expert" analysis by Kuzembayeva of the ARA, to which Jehovah's Witnesses had objected.

However, the 4 September 2014 Supreme Court decision – seen by Forum 18 - defends Kuzembayeva's work. "This expert prepares reasoned, objective and complete expert conclusions on questions presented by the authorised body [the then ARA], so doubts do not arise about her competence."

## **Not religious censorship?**

In a 31 January joint urgent appeal to the Kazakh government, mainly related to restrictions on Jehovah's Witnesses, five United Nations (UN) Special Rapporteurs and one Independent Expert called for "banning of their religious publications to be discontinued" (see F18News 8 October 2014 [http://www.forum18.org/archive.php?article\\_id=2004](http://www.forum18.org/archive.php?article_id=2004)).

In the second of its two responses to the UN, dated 7 April, the Kazakh government insisted that the "main purpose of regulating the import and dissemination of religious literature is not to restrict the dissemination of the religious literature of certain religious movements but rather to prohibit the dissemination of literature with appeals to extremism and ideas that may harm interfaith relations, public safety and civil rights and freedoms".

The government response claimed that the "expert" analyses "do not constitute religious censorship. A religious/legal expert appraisal is not a religious (theological) assessment, as it is aimed at assessing literature only insofar as it is in keeping with the national laws."

The response notes that the only religious literature that is not subject to prior government censorship is religious literature imported in small quantities for personal use.

The government response defended the negative assessments given to 14 Jehovah's Witness works. "The independent experts came up with such findings after making objective assessments of the presence in the literature of texts that infringe on legally protected rights, freedoms and interests," it claimed. "In particular, some materials use wording that is offensive to the feelings of believers, namely Christians. The authors of a magazine call the doctrine of the Trinity false and use phrases such as 'false doctrine' and 'doctrine that dishonours God'."

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## **Fourteenth known 2014 short-term prison term**

Forum 18 (08.10.2014) - On 18 August, Council of Churches Baptist Nikolai Novikov became the 14th individual known to have been given a short-term prison sentence in Kazakhstan this year for refusing to pay an earlier fine imposed to punish him for refusing to seek state permission to exercise the right to freedom of religion or belief, Forum 18 News Service notes. He served five days in prison in West Kazakhstan Region, a month after a fellow Baptist in East Kazakhstan Region served a ten-day prison term on the same charges. Meanwhile, a husband and wife are the latest individuals known to have been fined for talking to others about their faith without the compulsory state permission.

Administrative prosecution of members of a Pentecostal church in Pavlodar for unregistered religious activity related to a rehabilitation centre seem likely. The moves appear to be part of a behind-the-scenes official campaign against communities regarded as "non-traditional", especially those running social projects, as revealed in a September letter from East Kazakhstan's deputy regional prosecutor, seen by Forum 18 (see F18News 14 October 2014 [http://www.forum18.org/archive.php?article\\_id=2006](http://www.forum18.org/archive.php?article_id=2006)).

In two letters to the United Nations Human Rights Council, Kazakhstan's government has vigorously rejected any criticism over its punishments for exercising the right to freedom of religion or belief. It also justified its restrictions on exercising the right to freedom of religion or belief, claiming they "fully meet international standards of human rights and freedoms" (see below).

Galym Shoikin, Chair of the Culture and Sport Ministry's Religious Affairs Committee, refused to discuss anything on 8 October. He put the phone down as soon as Forum 18 identified itself. (The Religious Affairs Committee was created in a government reorganisation on 6 August which abolished the Agency of Religious Affairs.)

"Offences" and punishments

Typical violations of the harsh 2011 Religion Law which end up in fines are distributing religious literature without the compulsory state licence, talking to other people about religion without compulsory personal registration as a "missionary", and meeting with others for worship or other religious purposes without compulsory state registration.

More than 150 such fines are known to have been handed down in 2013, and nearly 50 in the first ten weeks of 2014 alone (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

Speaking in the capital Astana on 19 September, the head of the presidential Human Rights Commission Kuanish Sultanov put the number of administrative cases to punish individuals for religious activity opened so far in 2014 at 92, with 71 individuals being fined, "Kazakhstanskaya Pravda" newspaper noted the following day. He put the figure for 2013 at 282 administrative cases, with 199 individuals being fined. The report gives no indication that Sultanov objects to such punishments.

Punishments are handed down under Article 374-1 and Article 375 of the current Administrative Code, and seem set to continue under the new Administrative Code, which mostly comes into force on 1 January 2015 (see F18News 21 July 2014 [http://www.forum18.org/archive.php?article\\_id=1979](http://www.forum18.org/archive.php?article_id=1979)).

Fines are generally 50 or 100 Monthly Financial Indicators (MFIs). Equivalent to about two months' average wages for those in work, 100 MFIs is currently 185,200 Tenge (6,500 Norwegian Kroner, 800 Euros or 1,000 US Dollars).

The "offences" and punishments under the current Article 374-1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") have been transferred unchanged into the new Administrative Code's Article 489, Parts 9, 10 and 11.

The "offences" and punishments under the current Article 375 ("Violating the Religion Law") have been transferred across to the new Administrative Code's Article 490. Some penalties have been increased and a new "offence" of "spreading the teachings of a religious group which is not registered in Kazakhstan" added.

Like Sultanov, Kazakhstan's presidentially-appointed Human Rights Ombudsperson, Askar Shakirov, similarly dismissed the concerns of those given such administrative punishments. His report for 2013, made public on 3 June 2014, he noted that many of the 34 applications to his Office about freedom of religion or belief violations concerned such punishments. His response to such applications was "to explain the norms of national legislation on religious activity and the necessity of observing them".

### ***Ten-day imprisonment***

Council of Churches Baptist Anatoly Stakhnev served a ten-day prison term in July for refusing to pay a fine of 50 MFIs for his role in a congregation that refuses to seek state permission to meet for worship, handed down on 31 January under Administrative Code Article 374-1, Part 2 (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

Like the civil disobedience adopted by other Council of Churches Baptists, Stakhnev considered the fine unjust and refused to pay. Court bailiffs launched proceedings against him on 4 July.

On 11 July, Judge Gibrat Valiyev of Semei Specialised Administrative Court handed down the ten-day prison sentence on Stakhnev, according to the verdict seen by Forum 18. He was given the maximum term under Administrative Code Article 524 ("Failure to carry out court decisions").

### ***Five-day imprisonment***

On 18 August, Judge Botagoz Nurmagambetova of Oral (Uralsk) Specialised

Administrative Court in West Kazakhstan Region found Council of Churches Baptist Novikov guilty of violating Administrative Code Article 524. She sentenced him to five days' imprisonment to start from that afternoon, according to the verdict seen by Forum 18.

Novikov had refused to pay a fine of 50 MFIs handed down by Akzhaik District Court in May 2013. In February 2014, court bailiffs in Oral visited his home and put a restraining order on his car (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

On 18 August, court bailiff Yerkebulan Andakulov drew up a record of an offence under Article 524 and presented the case to court. The record – seen by Forum 18 – notes that he had taken "forcible measures" against Novikov, including by imposing restraining orders on his property.

Novikov told the 18 August hearing that he would not pay the fine as he did not agree with it. The verdict notes that he had also refused to sign any documents related to the case.

Novikov is also on the Justice Ministry's exit blacklist for refusing to pay administrative fines. Andakulov, the court bailiff in Oral who had brought Novikov to court and had him placed on the exit ban list, defended his action. "It was all done according to the law," he insisted to Forum 18 from Oral on 7 October. "He was fined and didn't pay."

Told that Novikov refused to pay because it is not right to punish for exercising his right to freedom of religion or belief, and asked why he should be punished further by being banned from leaving Kazakhstan, Andakulov responded: "This is not something I can discuss by phone."

### ***14 short-term prisoners***

The 14 individuals known to have been given short-term jail terms so far in 2014 under Article 524 are:

1. Vyacheslav Cherkasov; CC Baptist; 9 January Burabai District Specialised Administrative Court; 2 days.
2. Zhasulan Alzhanov; CC Baptist; 9 January Burabai District Specialised Administrative Court; 2 days.
3. Maksim Kandyba; CC Baptist; 20 January Semei Specialised Administrative Court; 10 days.
4. Pavel Leonov; CC Baptist; 20 January Ayagoz District Court; 3 days.
5. Vitaly Krasilnikov; CC Baptist; 21 January Oskemen Specialised Administrative Court; 1 day.
6. Aleksandr Pukhov; CC Baptist; 3 March Petropavl Specialised Administrative Court; 5 days.
7. Vyacheslav Flocha; CC Baptist; 6 March Zhaksy District Court No. 2; 5 days.
8. Sergei Golovanenko; CC Baptist; 18 March Burabai District Court; 2 days.
9. Denis Yenenko; CC Baptist; 17 April Shal-akyn District Court; 6 days.



10. Viktor Kandyba; CC Baptist; 27 May Semei Specialised Administrative Court; 10 days.
11. Name withheld; Muslim; early July Court name withheld; 5 days.
12. Ramil Nizamov; CC Baptist; 8 July Petropavl Specialised Administrative Court; 5 days.
13. Anatoly Stakhnev; CC Baptist; 11 July Semei Specialised Administrative Court; 10 days.
14. Nikolai Novikov; CC Baptist; 18 August Oral Specialised Administrative Court; 5 days.

In addition, on 12 February Nury District Court found Baptist Sergei Lantsov guilty of violating Administrative Code Article 524. He fined him 2 MFIs.

### ***"Illegal" literature distribution***

On the afternoon of 6 July, Anti-Extremism Department Police officer U. Mukatov found several Council of Churches Baptists – among them Novikov – distributing religious literature "of this unregistered religious association" on the streets of Oral. He drew up a record of an administrative offence against Novikov under Administrative Code Article 374-1, Part 2. "He refused to give any statement," the record – seen by Forum 18 – notes.

On 12 August, Judge Bogotaz Baimukhanova of Oral Specialised Administrative Court found Novikov guilty and fined him 50 MFIs, according to the verdict seen by Forum 18.

Police have detained and questioned other Council of Churches Baptists for offering religious literature to passers-by on the streets. In Zhezkazgan in Karaganda Region on 20 August, police seized religious literature from Nadezhda Yefin and Margarita Yantsen and interrogated them, Council of Churches Baptists told Forum 18.

Council of Churches Baptists preaching on streets of the village of Novoukrainka in North Kazakhstan Region were detained and questioned by police on 21 August, Council of Churches Baptists told Forum 18. Their literature was also seized.

### ***"Illegal" sharing of faith***

Jehovah's Witness husband and wife, Vladimir and Regina Milintsov, are the latest individuals known to have been fined for talking to others about their faith without the compulsory state permission. Both were found guilty at Karatal District Court of Almaty Region on 29 September of violating Article 375, Part 3 of the Administrative Code, according to the verdicts seen by Forum 18. Each was fined 100 MFIs.

The cases had been brought by Kazbek Omarov, an official of the Religious Affairs Department of Almaty Region. He told the hearing in Vladimir Milintsov's case that he had received "materials" about the couple from the Prosecutor's Office.

A local resident complained to the police that on 2 July the two had been talking to others on the streets of their home town of Ushtobe in Almaty Region. Court documents seen by Forum 18 cite the man as complaining that in conversation the couple "commented negatively on Islam and praised their own religious faith". Both Vladimir and Regina Milintsov in their separate hearings denied ever having seen the man before.

In his hearing, Vladimir Milintsov cited freedom of religion and freedom of speech

guarantees in Kazakhstan's Constitution and international human rights commitments Kazakhstan has signed up to, including the International Covenant on Civil and Political Rights. However, the court dismissed his references to the country's human rights obligations.

Forum 18 was unable to reach Omarov – or any other official – at the Religious Affairs Department between 6 and 8 October.

### ***Government justifies restrictions***

Concerned by repeated violations of the rights of individuals to freedom of religion or belief in Kazakhstan, five United Nations (UN) Special Rapporteurs - on the promotion and protection of the right to freedom of opinion and expression; on the rights to freedom of peaceful assembly and of association; on freedom of religion or belief; on the situation of human rights defenders; on the independence of judges and lawyers – as well as the then Independent Expert on Minority Issues wrote to the Kazakh government on 31 January.

In particular, the Rapporteurs were concerned over the fine and deportation order against Jehovah's Witness Yuri Toporov, as well as raids on their meetings and fines on their members for talking to others about their faith. The Rapporteurs urged the government for "Mr. Toporov not to be deported, that the charges against him and other members of Jehovah's Witnesses for alleged illegal missionary activity to be withdrawn, as well as the raids of their religious meetings, and the banning of their religious publications to be discontinued". The deportation order against Toporov was not cancelled, however (see F18News 22 April 2014 [http://www.forum18.org/archive.php?article\\_id=1950](http://www.forum18.org/archive.php?article_id=1950)).

The Kazakh government defended its record in two responses to the Urgent Appeal, a three-page response to the UN of 28 March, and an 18-page response of 7 April, both seen by Forum 18.

### ***Bureaucratic controls are "state services"?***

in the 7 April response, the government listed some of its limitations on exercising the right to freedom of religion or belief – "the registration of religious associations, the registration of missionaries, a religious/legal expert appraisal of the articles of association and other documents with religious content, spiritual (religious) educational programmes, informational materials with religious content and religious items, and the regulation of the distribution of religious literature and other informational materials with religious content or religious items".

The government insisted such controls are necessary to protect individuals from religious communities it alleges foment religious strife, break up families, force people to take part in their activity, use "coercive recruitment methods, including through charitable activity", and force members to transfer their property to them. Forum 18 notes that none of those given administrative punishments have been accused of such crimes.

Curiously, the government response describes these bureaucratic controls on exercising the right to freedom of religion or belief as "state services".

The government even claims – without giving any evidence – that the existence of these controls "makes it possible for the State to take measures to prevent threats in the area of religion (including the spread of religious extremist and terrorist ideologies and the use of destructive methods in religious practices) and to provide safeguards against illegal and unjustified interference by State bodies in the activities of religious associations".

Such claims contradict Kazakhstan's formal international commitment as an Organisation for Security and Co-operation in Europe (OSCE) participating State to respect human rights – including freedom of religion or belief – as a way to deal with such alleged threats.

***"Missionary work often covers for the ideology of extremism"***

The 7 April response shows further unsubstantiated government claims about religious communities seeking new members. "It is an open secret that missionary work often covers for the ideology of extremism and the followers of various destructive religious groups. Practices of this kind cannot be eliminated by turning a blind eye to them. There was a need, therefore, for the registration of missionaries for the purpose of protecting social order, human rights and freedoms and public health and morality." Again, it gives no evidence for its claims.

The government response dismisses concerns about restrictions on individuals talking to others about their faith "The law does not restrict the right to propagate religious doctrine, but rather provides a regulatory framework for missionary work," it claims. But it notes that, among Jehovah's Witnesses, the "performance of missionary work without registration is among the most common offences".

The response appears to blame Jehovah's Witnesses, noting that not one of them has applied for personal registration as a "missionary". It attacks their "highly obtrusive style of missionary work", claiming that they "often stir up outrage among the people" and thereby violating others' right to freedom of religion or belief. "The bulk of the administrative case files concerning the Jehovah's Witnesses have come from citizens' appeals and complaints along these lines."

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## **Jailings under Administrative Code continue as new Codes signed**

Forum 18 (21.07.2014) - Two new short-term prison sentences have been handed down in two separate administrative cases, Forum 18 News Service has learned. Ramil Nizamov, a 22-year-old Baptist, and a Muslim who asked not to be identified were each sentenced to five days' imprisonment for refusing to pay earlier fines for exercising the right to freedom of religion or belief. Their cases bring to 12 the number of individuals known to have been given such short-term prison sentences in Kazakhstan in 2014 so far.

These administrative cases continue as President Nursultan Nazarbayev signed into law a new Code of Administrative Offences, which mostly takes effect from 1 January 2015. He also signed into law a new Criminal Implementation Code (see below).

President Nazarbayev has also signed into law the new Criminal Code on 3 July and it was officially published on 9 July. The text of the Code has been condemned by human rights defenders. It has been used comparatively rarely to punish people exercising the right to freedom of religion or belief, but is currently being used in the cases of retired Presbyterian Pastor Bakhytzhan Kashkumbayev and atheist writer Aleksandr Kharlamov (see F18News 9 July 2014 [http://www.forum18.org/archive.php?article\\_id=1976](http://www.forum18.org/archive.php?article_id=1976)).

However, the Administrative Code is frequently used against people exercising the right to freedom of religion or belief (see eg. F18News 29 May 2014 [http://www.forum18.org/archive.php?article\\_id=1963](http://www.forum18.org/archive.php?article_id=1963)). Forum 18 has noted more than

150 known administrative fines in 2013 and nearly 50 in the first 10 weeks of 2014 alone (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

### ***Five-day sentence***

On 8 July, Judge Aslambek Koshenov of Petropavlovsk Specialised Administrative Court imposed a five-day prison term on local Baptist Nizamov under Administrative Code Article 524. This punishes "failure to carry out court decisions" with a fine or imprisonment of between five and ten days. The 8 July verdict, seen by Forum 18, claims that imprisonment was necessary, pointing to "the influence of the appointed punishment on the correction of the offender" as well as "warning against conducting further offences, both by the offender and others".

"During the hearing, our brother explained that he had not fulfilled the earlier court decision because he doesn't consider himself guilty," local Baptists told Forum 18 on 9 July, calling the punishment "unjust".

Nizamov is a member of a Petropavl [Petropavlovsk] Baptist Council of Churches congregation in North Kazakhstan Region. These Baptists refuse on principle to register their congregations with the state, and are frequent targets of administrative punishment for continuing to meet for worship and share their faith without state permission. He was imprisoned for refusing to pay a fine of 92,600 Tenge, 50 Monthly Financial Indicators (MFIs) handed down by the same court on 13 February. This is about 3,000 Norwegian Kroner, 375 Euros, or 500 US Dollars, which is equivalent to about one month's average salary for those in work.

His "offence" was to attend a Sunday morning meeting for worship on 26 January raided by the police. The fine was imposed under Administrative Code Article 374-1, Part 2 ("Participation in the activity of an unregistered, halted, or banned religious community or social organisation") (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

### ***Appeal against fine rejected, bailiff initiates action***

On 11 March, Judge Abai Ryskaliyev of North Kazakhstan Regional Court rejected Nizamov's appeal against the fine, according to the decision seen by Forum 18.

After Nizamov failed to pay the fine, court bailiff Raushan Ablayeva launched moves against him to recover the money on 14 April, according to case materials seen by Forum 18. On 18 April, she issued an order banning him from disposing of any of his property. On 2 June, she issued a "temporary ban" on Nizamov leaving Kazakhstan and ordering the case to be handed to court.

One summons by bailiff Ablayeva ordering Nizamov to present himself on 18 June was headed "APPEAR IMMEDIATELY!!!!" It warned him that he would be banned from leaving Kazakhstan and have his property seized if he failed to pay. Such exit bans are routinely imposed. As human rights defender Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law has noted, this "double punishment" is not governed by any law (see Forum 18's Kazakhstan religious freedom survey at [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

### ***"What else should I do?"***

Bailiff Ablayeva acknowledged that Nizamov had only been punished for attending a religious meeting, but insisted that it is not her role to assess the validity of court decisions. "I acted in accordance with the law," she insisted to Forum 18 on 10 July.

"What else should I do?" She also defended the five-day prison term handed down. "I was there in court participating in the hearing."

Judge Koshenov's assistant refused to put Forum 18 through to him on 10 July. "We don't have the right to do so." But she defended the five-day prison term Koshenov had handed down on Nizamov. "He failed to fulfil a court order."

### ***Another five-day jail sentence***

A Muslim has also, like Nizamov, been given a five-day prison term in early summer under Administrative Code Article 524 ("Failure to carry out court decisions"), according to the verdict seen by Forum 18. This person's offence was to fail to pay earlier fines for publishing and distributing religious literature which has not undergone the compulsory state censorship. Kazakhstan operates a severe censorship regime against all literature relating to religions or beliefs and where such texts can be distributed (see Forum 18's Kazakhstan religious freedom survey at [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

"It's our Muslim faith not to complain," the individual told Forum 18 after the term of imprisonment had been completed. "We trust in Allah." The Muslim asked not to be identified.

The Muslim is also on the Justice Ministry's exit blacklist for refusing to pay fines.

### ***Another "anti-extremism" raid, another fine***

Another Council of Churches Baptist, Maksim Volikov, was punished for hosting meetings for worship without state permission in his home in the village of Shalkar, in North Kazakhstan Region. "Anti-Extremism Police" and other officials raided his home during Sunday worship on 25 May.

"Halting the service, they began to ask questions: Who are you? What are you doing here? Where did you get your religious literature?" local Baptists complained to Forum 18 on 28 June. "They didn't react when we asked them not to interfere with the course of the worship service, instead demanding that we write statements." Police drew up a record of an "offence" against Volikov of leading an unregistered religious community.

On 27 June, Judge Mubarek Ramazanov of Aiyrtau District Court No. 2 found Volikov guilty of violating Administrative Code Article 374-1, Part 1. He fined him 185,200 Tenge, 100 MFIs, twice the amount Nizamov was fined which is equivalent to about two months' average salary for those in work.

### ***Administrative Code signed***

The proposed text of the new Administrative Code was prepared by the Justice Ministry (see F18News 18 March 2013 [http://www.forum18.org/archive.php?article\\_id=1814](http://www.forum18.org/archive.php?article_id=1814)). It reached Parliament's lower house, the Majilis, in November 2013, and after completing parliamentary passage was sent to President Nazarbayev for signature on 18 June 2014. (Parliament is overwhelmingly dominated by the presidential Nur Otan party.) He signed the new Administrative Code into law on 5 July, according to the presidential website.

The new Administrative Code was officially published on 12 July in the Kazakh-language paper Egemen Kazakhstan and the Russian-language paper Kazakhstanskaya Pravda.

Almost all provisions of the new Administrative Code enter into force on 1 January 2015.

### ***Codes "violate the principle of justice"***

President Nazarbayev's decision to sign the new Codes came despite urgent pleas against his decision from local human rights defenders. This included a last-ditch appeal from 172 groups and individuals, published on the website of the Kazakhstan International Bureau for Human Rights and the Rule of Law on 19 June.

The human rights defenders pointed out that the Administrative Code Article punishing "violation of the law on public associations" allows groups to be officially suspended or banned from meeting even for technical violations "or for any legal activity not specified in their statute". "This legal provision arouses particular concern in relation to religious communities," they warn.

Among other concerns, the human rights defenders note that other Administrative Code punishments for those exercising their right to freedom of religion or belief "violate the principle of justice". They add that they also violate Article 22 of Kazakhstan's Constitution, which declares that "Everyone has the right to freedom of conscience." Article 39 of the Constitution specifies that "in no circumstances can the rights and freedoms specified in .. Article 22 be subjected to restrictions."

An earlier joint statement from 119 human rights defenders condemned the new Codes as "considerably restricting and harming human rights", and noted that "reasoned proposals from civil society were ignored" (see F18News 16 May 2014 [http://www.forum18.org/archive.php?article\\_id=1959](http://www.forum18.org/archive.php?article_id=1959))

### ***Harsh punishments "like a baton, to use as a threat"***

Human rights defender Zhovtis, of the Kazakhstan International Bureau for Human Rights and the Rule of Law, noted to Forum 18 on 21 July that "unfortunately, Kazakhstan continues to flagrantly violate the freedom of religion or belief guaranteed for its citizens by its Constitution and its international human rights obligations."

Zhovtis commented on the new Codes providing for harsh punishments for people merely exercising their freedom of religion or belief. He hoped that the state will not use these punishments "as often as in the past". He described the Codes as being "like a baton, to use as a threat against those the state does not like", noting that "the situation in Kazakhstan of human rights in general and freedom of religion or belief in particular is getting worse".

### ***What is in the new Administrative Code?***

The main articles in the old Administrative Code used to prosecute people exercising their freedom of religion or belief have been Articles 374-1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") and 375 ("Violating the Religion Law"). Article 375 was greatly expanded in 2011 at the same time that a restrictive new Religion Law was passed through Parliament. All these laws and the state's implementation of them break Kazakhstan's international human rights law obligations (see Forum 18's Kazakhstan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

The new Administrative Code's Articles 489 and 490 mainly replicate the old Code's Articles 374-1 and 375. Other parts of the new Code – like the old Code – also affect freedom of religion or belief. Article 804, for example, allows (as the old Code permitted) the state Agency of Religious Affairs to both accuse people or organisations of violating a law and prepare cases for prosecution.

### ***Article 489***

Article 489, like the old Article 374-1, mainly deals with public associations. But its Parts

9, 10 and 11 deal with religious groups, and replicate the relevant parts of the old Article 374-1.

Part 9 punishes "leading an unregistered, halted, or banned religious community or social organisation" with a fine of 100 monthly Financial Indicators (MFIs).

The MFI is set annually, and since 1 January 2014 has been 1,852 Tenge (60 Norwegian Kroner, 7 Euros, or 10 US Dollars). 50 MFIs are equivalent to about one month's average salary.

Part 10 punishes "participating in an unregistered, halted, or banned religious community or social organisation" with a fine of 50 times the MFI.

Part 11 punishes "financing an unregistered, halted, or banned religious community or social organisation" with a fine of 200 times the MFI.

### **Article 490**

Article 490 ("Violation of the Religion Law") mainly replicates the old Article 375, but adds a new offence of "spreading the teachings of a religious group which is not registered in Kazakhstan". The Article states:

"- Part 1. Violating the requirements of the Religion Law for:

- 1) conducting religious rites, ceremonies and/or meetings;
- 2) carrying out charitable activity;
- 3) import, production, publication and/or distribution of religious literature and other religious materials, and items for religious use;
- 4) construction of religious buildings, and changing the profile (functional purpose) of a building into a religious building;

shall result in a fine on physical persons of 50 times the MFI; and on legal persons [communities with state permission to exist] of 200 times the MFI with suspension of their activity for a term of three months.

- Part 2. Impeding lawful religious activity as well as violation of the civil rights of physical persons on grounds of their religious views or insulting their feelings or profanation of items, buildings and places revered by followers of any religion, unless there are signs of criminally punishable actions,

shall result in a fine on physical persons of 50 times the MFI; and on legal persons of 200 times the MFI.

- Part 3. Carrying out missionary activity without state registration (or re-registration), as well as the use by missionaries of religious literature, information materials with religious content or religious items without a positive assessment from a religious studies expert analysis, and spreading the teachings of a religious group which is not registered in Kazakhstan,

shall result in a fine on Kazakh citizens of 100 times the MFI; and on foreigners and stateless persons of 100 times the MFI with administrative deportation from Kazakhstan.

- Part 4. A religious association carrying out activity which is not defined in its charter,

shall result in a fine of 300 times the MFI with suspension of activity for three months.

- Part 5. Engagement by a religious association in political activity as well as participation in the activity of political parties and/or rendering them financial assistance, interference in the activity of state agencies, or the assumption by members of religious associations of the functions of state agencies or officials,

shall result in a fine of 300 times the MFI with suspension of activity for three months.

- Part 6. Creation of organisational structures of religious organisations in state agencies, organisations and entities, as well as in organisations carrying out health care and education,

shall result in a fine on officials of 100 times the MFI; and on legal persons of 200 times the MFI.

- Part 7. Leadership of a religious association by a person assigned by a foreign religious centre without the consent of the authorised state agency, as well as the leader of a religious association not taking measures not to allow the involvement and/or participation of under age children in the activity of the religious association when one of the parents or their other legal representatives objects,

shall result in a fine of 50 times the MFI with administrative deportation from Kazakhstan.

- Part 8. Actions or lack of actions resulting in repeated breaking of Parts 1, 2, 3, 4, 5 and 7 of this Article, repeated within one year of an administrative penalty being imposed,

shall carry a fine on physical persons of 200 times the MFI; on officials of 300 times the MFI; and on legal persons of 500 times the MFI with banning of their activity."

### ***- Deportation from Kazakhstan for Kazakh citizens?***

Part 7 – unlike the relevant part of the old Article 375 - imposes fines on and deportation of anyone breaking that part of Article 490. This could theoretically lead to a court ordering the deportation from Kazakhstan of a Kazakh citizen.

Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law told Forum 18 that he thinks that this is "just carelessness on the part of the officials working on the text. Probably deportation will only be imposed if the concerned person is a foreigner or a stateless person."

As is usual with Kazakh law (including the new Criminal Code) many of the Administrative Code's "offences" are not precisely defined leaving much room for arbitrary official actions (see F18News 9 July 2014 [http://www.forum18.org/archive.php?article\\_id=1976](http://www.forum18.org/archive.php?article_id=1976)). Article 490 Part 7, like the old Article 375, facilitates state pressure against children or young people, parents - even separated or divorced parents - and guardians involved in a religious community state officials dislike. It also allows pressure against anyone involved in such communities (see Forum 18's Kazakhstan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

### ***Criminal Implementation Code signed***



The Criminal Implementation Code governs conditions for those serving criminal sentences, including the extent to which they are or are not allowed to exercise their right to freedom of religion or belief while imprisoned.

The initial text of the new Criminal Implementation Code was prepared by the Interior Ministry and reached the Majilis in October 2013 (see F18News 16 May 2014 [http://www.forum18.org/archive.php?article\\_id=1959](http://www.forum18.org/archive.php?article_id=1959)). After completing its parliamentary passage, it was sent to President Nazarbayev for signature on 13 June 2014. He signed the new Criminal Implementation Code into law on 5 July, according to the presidential website. It was officially published on 11 July in the Kazakh-language paper Egemen Kazakhstan and the Russian-language paper Kazakhstanskaya Pravda.

Almost all provisions of the new Code enter into force on 1 January 2015.

### ***What is in the new Criminal Implementation Code?***

The Criminal Implementation Code covers how people convicted of breaking the Criminal Code are to be treated while under punishment. International law defends the right of prisoners to freedom of religion or belief, and the International Covenant on Civil and Political Rights (ICCPR), ratified by Kazakhstan in 2006, states: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person" (Article 10, Paragraph 1). This specifically includes those held in prisons, detention camps or correctional institutions (General Comment 21 on ICCPR Article 10).

Among other relevant United Nations standards is the 1955 Standard Minimum Rules for the Treatment of Prisoners, which state: "Access to a qualified representative of any religion shall not be refused to any prisoner" (Rule 41, Part 3). The Standard Minimum Rules also stipulate that: "So far as practicable, every prisoner shall be allowed to satisfy the needs of his/her religious life by attending the services provided in the institution and having in his/her possession the books of religious observance and instruction of his/her denomination" (Rule 42).

Yet – as with other Kazakh laws – provisions of the Criminal Implementation Code break Kazakhstan's international human rights obligations. For example, no part of the ICCPR or the Standard Minimum Rules restrict prisoners' rights to freedom of religion or belief to only those prisoners who adhere to religious or belief groups the state has given registration to.

The wording of the Criminal Implementation Code allows much scope for arbitrary official interpretation, allowing prisoners' exercise of their right to freedom of religion or belief to be restricted. Among its provisions are:

- Prohibition on freedom of religion or belief without state permission

Article 13 of the Criminal Implementation Code covers "the rights to freedom of conscience and religion of those sentenced". It states that participation in religious rites is voluntary, adding that in carrying out religious rites, "the internal regulations of the institution are to be observed".

Article 13 also states that at the request of prisoners or their relatives, "in cases of ritual necessity" clergy from a registered religious organisation can be invited to visit the prisoner. No definition of "ritual necessity" is given. All exercise of freedom of religion or belief without state permission is banned (see Forum 18's Kazakhstan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)). Article 13 extends this prohibition on non-state-registered activity to prisons. Under Article 8, registered

religious organisations are among groups able to assist in monitoring prisons, rehabilitating prisoners and proposing improvements to the prison system.

Article 32 states that clergy, journalists and others need "special permission from the administration of these institutions or higher bodies" to visit places of detention.

The prison administration, Article 13 states, "secures the conditions for carrying out religious rituals", as well as guaranteeing the security of the clergy. Article 16 specifies that the state body in charge of the prison system draws up "an instruction for creating conditions for the carrying out of religious rites by those sentenced to deprivation of freedom".

### **- Places of worship banned**

In a departure from the vague wording used when the Code outlines what might be permitted, the Code uses clear language in a prohibition. Article 13 Part 6 categorically states: "The construction of places of worship (buildings) on the territory of institutions or organs implementing punishments is banned". Although this is not explicitly stated, it would appear that the designation of specific rooms for prayer is also banned. Prison mosques, churches, and prayer rooms which existed in 2011 were rapidly closed by the authorities at the same time the latest Religion Law and then-Administrative Codes' Article 375 were expanded and passed through Parliament (see F18News 11 November 2011 [http://www.forum18.org/archive.php?article\\_id=1635](http://www.forum18.org/archive.php?article_id=1635)).

### **- Censorship extended to cover prisoners' literature**

Article 104, which covers the "rights and responsibilities of those sentenced", notes that prisoners have the right to read "religious literature which has received a positive conclusion of a religious studies expert analysis". Such "expert analyses" are a central part of Kazakhstan's strict censorship regime covering the whole country (see Forum 18's Kazakhstan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

Article 110 specifies that prisoners may have literature, but bans them from having literature of certain types, including "extremist" literature and literature promoting "social, racial, ethnic, religious, class or tribal superiority".

"Extremism" is frequently used by state officials to justify violations of freedom of religion or belief. Similarly, state officials have refused to make public what they consider to be "extremist" in banned religious books and what books are banned (see F18News 6 January 2014 [http://www.forum18.org/Archive.php?article\\_id=1914](http://www.forum18.org/Archive.php?article_id=1914)).

An earlier draft clause of Article 110, which would have banned prisoners from having their own religious literature in jail, was removed during the Code's passage through the Majilis.

Forum 18 notes that the Criminal Implementation Code's restrictions on exercising the right to freedom of religion or belief in prisons mirror restrictions on exercising this human right throughout Kazakhstan.

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## **Two criminal cases continue as new Criminal Code signed**

Forum 18 (09.07.2015) - Criminal cases continue in Kazakhstan against at least two individuals apparently to punish them for exercising the right to freedom of religion or

belief. The two men known to be under criminal investigation are retired Presbyterian Pastor Bakhytzhan Kashkumbayev (who has already been convicted in one criminal case) and atheist writer Aleksandr Kharlamov, Forum 18 News Service notes. Both vigorously deny any wrongdoing.

Forum 18 is aware of other members of religious communities who have been told by police or prosecutors that they are under criminal investigation, apparently to punish them for exercising the right to freedom of religion or belief. However, in these cases the individuals did not want publicity, insisting that the accusations were being resolved.

The criminal cases continue as President Nursultan Nazarbayev signed into law the controversial new Criminal Code, which mostly takes effect from the beginning of 2015. He also signed the new Code of Administrative Offences and the new Criminal Implementation Code, the final texts of which has not yet been made public (see below).

While criminal prosecutions to punish individuals for exercising the right to freedom of religion or belief are comparatively rare, administrative prosecutions – resulting in fines or up to ten-day imprisonments – are frequent (see F18News 29 May 2014 [http://www.forum18.org/archive.php?article\\_id=1963](http://www.forum18.org/archive.php?article_id=1963)).

### ***Criminal case against Pastor Kashkumbayev***

The 67-year-old Kashkumbayev, retired pastor of Grace Presbyterian Church in the capital Astana, is being investigated by the city's Prosecutor's Office of harming the health of another former parishioner, S. Kaliev. Kashkumbayev vigorously denies harming anyone's health during his ministry. He is being investigated under four Criminal Code Articles, according to case materials:

- Article 103, Part 2, Point a, which punishes "Intentional inflicting of serious harm to health" in relation to "two or more persons". Punishment is between four and eight years' imprisonment.

- Article 164, Part 2, which punishes "Deliberate actions aimed at the incitement of social, national, clan, racial, or religious hatred or antagonism, or at offence to the national honour and dignity, or religious feelings of citizens, as well as propaganda of exclusiveness, superiority, or inferiority of citizens based on their attitude towards religion, or their genetic or racial belonging, if these acts are committed publicly or with the use of the mass information media" when conducted "by a group of people or more than once, or when accompanied by violence or the threat of its use, or by a person using their official position or by a leader". Punishments range from a fine to imprisonment of up to seven years.

- Article 233-1, Part 2, which punishes "propaganda of terrorism or extremism or public calls to conduct acts of terrorism or extremism" when conducted using one's official position. Punishment is imprisonment of between five and ten years.

- and Article 337, Part 1, which punishes "creation or leadership of religious or social organisations whose activity involves violence against citizens or the causing of other harm to their health, or the incitement of citizens to refuse to carry out their civil obligations or to carry out other illegal activities, as well as the creation or leadership of parties on a religious basis or political parties and professional unions financed from sources banned by the laws of Kazakhstan". Punishments range from a fine to imprisonment of up to six years.

The head of the Department overseeing the case against Pastor Kashkumbayev at Astana Prosecutor's Office, Ruslan Azambayev, refused absolutely to confirm that the criminal case is continuing or when it is likely to be concluded. "This is official information," he

told Forum 18 on 9 July, refusing to provide any details. He referred further enquiries to Investigator Kanatphan Kamalbek in his Department. However, his phone went unanswered the same day.

### ***"Extra investigation"***

This case was originally part of an earlier criminal case against Pastor Kashkumbayev, but was separated from it in January for separate "extra investigation" (see F18News 22 January 2014 [http://www.forum18.org/archive.php?article\\_id=1918](http://www.forum18.org/archive.php?article_id=1918)).

Pastor Kashkumbayev's lawyer, Nurlan Beysekeyev, tried to challenge the 17 February decision by Judge Gulzhakhan Ubasheva of Astana's Almaty District Court No. 2 to send the case for further investigation. However, in a decision seen by Forum 18, on 30 April Judge Suleimen Ezhebekov of Astana City Court rejected the suit.

The original criminal case against Pastor Kashkumbayev was formally launched in February 2012, four months after his retirement. He was arrested in May 2013 and held in custody (including a month in enforced psychiatric detention) until the verdict in the trial was handed down on 17 February 2014.

Pastor Kashkumbayev was convicted under Article 103 of harming the health of another church member, Lyazzat Almenova, although she has repeatedly insisted to Forum 18 and to others that her health has not been harmed. He was given a four-year suspended prison term, was ordered to live under restrictions, and was ordered to pay the representative of his alleged "victim" large "moral damages" of 2 Million Tenge (65,800 Norwegian Kroner, 7,900 Euros or 10,800 US Dollars) (see F18News 17 February 2014 [http://www.forum18.org/archive.php?article\\_id=1929](http://www.forum18.org/archive.php?article_id=1929)).

### ***Criminal case against atheist Kharlamov***

The criminal investigation of Kharlamov, a writer and public activist in the town of Ridder in East Kazakhstan Region, continues, he told Forum 18 from the town on 9 July. He is being investigated for articles he wrote in defence of atheism under Criminal Code Article 164, Part 1 for allegedly "inciting religious hatred", charges he vigorously rejects.

The case is now being led by Investigator Mirhad Aytkali of Ridder Town Police. He absolutely refused to discuss any progress on the case with Forum 18 on 9 July. The telephone of Denis Yelenbesov, head of the Investigation Department of Ridder Town Police, went unanswered the same day.

Kharlamov, who marked his 64th birthday on 2 July, remains under restrictions in Ridder. He must remain in the town and "should behave properly in public". Police have not returned computers they seized from him during a house search in February 2013, the month before his arrest, he told Forum 18.

"Investigator Aytkali hasn't told me when the case is likely to come back to court," Kharlamov told Forum 18. He insists that the criminal case against him should be closed. "But they don't want to do this because they would then have to investigate those who opened it against me – they would bear responsibility."

Kharlamov said he wants those responsible for launching the "illegal" case and the six months he spent in pre-trial detention in 2013 (including – like Pastor Kashkumbayev – one month enforced psychiatric detention) to be held to criminal account and forced to pay him damages. "Why forgive them?" he asked. "They're state criminals and they'll only do the same to others."

Police claim to have found 12 of Kharlamov's writings on religion in September 2012.

Although they admitted to Forum 18 that no-one was harmed by these writings, police ordered a "psychological/philological expert analysis" of the texts. He was arrested in March 2013, and while being held in detention was sent to a psychiatric hospital. One doctor told Kharlamov that he had been sent to the psychiatric hospital "because you are an inconvenient person for the authorities" (see F18News 7 October 2013 [http://www.forum18.org/archive.php?article\\_id=1884](http://www.forum18.org/archive.php?article_id=1884)).

Kharlamov's trial began on 19 July 2013 at Ridder City Court, but the case was sent back for further investigation on 13 August 2013. He was freed in September 2013 while the investigation continued (see F18News 22 January 2014 [http://www.forum18.org/archive.php?article\\_id=1918](http://www.forum18.org/archive.php?article_id=1918)).

### ***Criminal Code signed***

The initial text of the new Criminal Code was prepared by the General Prosecutor's Office (see F18News 18 March 2013 [http://www.forum18.org/archive.php?article\\_id=1814](http://www.forum18.org/archive.php?article_id=1814)). It reached the lower house of Parliament, the Majilis, in October 2013. After completing passage in Parliament, it was sent to the President for signature on 18 June 2014. President Nazarbayev signed the new Criminal Code into law on 3 July, according to the presidential website.

The new Criminal Code was officially published on 9 July in the Kazakh-language paper Egemen Kazakhstan and the Russian-language paper Kazakhstanskaya Pravda.

Almost all provisions of the new Criminal Code enter into force on 1 January 2015.

President Nazarbayev signed into law the new Administrative Code and the new Criminal Implementation Code on 5 July, but the final texts of these have not yet been made publicly available. Both are expected to be officially published shortly (see F18News 21 July 2014 [http://www.forum18.org/archive.php?article\\_id=1979](http://www.forum18.org/archive.php?article_id=1979)).

### ***Urgent pleas ignored***

The President's decision to sign the new Codes came despite urgent pleas from local human rights defenders, including a last-ditch appeal from 172 groups and individuals, published on the website of the Kazakhstan International Bureau for Human Rights and the Rule of Law on 19 June. An earlier joint statement from 119 human rights defenders condemning the new Codes as "considerably restricting and harming human rights", and noted that "reasoned proposals from civil society were ignored" (see F18News 16 May 2014 [http://www.forum18.org/archive.php?article\\_id=1959](http://www.forum18.org/archive.php?article_id=1959))

### ***New Criminal Code Articles***

Two Articles of the new Criminal Code continue existing provisions which could be used to punish individuals for exercising the right to freedom of religion or belief. Both are slightly amended versions of Articles already in the current Criminal Code.

None of the proposed new punishments in earlier Criminal Code drafts which would have widened the scope of the Code to punish exercising the right to freedom of religion or belief survived into the final version, Forum 18 notes.

#### ***- Article 404***

The new Article 404 is entitled "Creation, leadership or participation in the activity of illegal social or other associations". This replicates exactly the crimes of the current Criminal Code Article 337, though with several increased penalties.

Part 1 of this Article will punish: "Creation or leadership of religious or social organisations whose activity involves violence against citizens or the causing of other harm to their health, or the incitement of citizens to refuse to carry out their civil obligations or to carry out other illegal activities, as well as the creation or leadership of parties on a religious basis or political parties and professional unions financed from sources banned by the laws of Kazakhstan".

The existing Criminal Code Article 337 was used in the trial of retired Pastor Kashkumbayev (see above).

Punishments for violating Part 1 of the new Article 404 will be a fine of up to 6,000 Monthly Financial Indicators (MFIs), or corrective labour "up to the same level", or up to six years' restrictions on freedom or imprisonment, with restrictions on holding specific posts or conducting certain unspecified activity for up to six years.

The MFI is set annually, and since 1 January 2014 has been 1,852 Tenge (60 Norwegian Kroner, 7 Euros, or 10 US Dollars). 50 MFIs are equivalent to about one month's average salary.

Part 2 of this Article will punish: "Creating social associations proclaiming or carrying out racial, national, clan, social, class or religious intolerance or exclusivity, calling for the violent overthrow of the constitutional order, subversion of state security, or infringing the state's territorial integrity, as well as leadership of such associations". This would be punished by imprisonment of between three and seven years, with restrictions on holding specific posts or conducting certain unspecified activity for up to three years.

Part 3 of this Article punishes "active participation" in Part 1 or 2 offences. This would lead to almost the same punishments as Part 1, though without any possible ban on conducting certain unspecified activity.

The new Code, like the Code it replaces, does not define clearly much of what is criminalised, including concepts such as "religious intolerance or exclusivity" and actions such as "proclaiming". This allows much scope for arbitrary official actions and prosecutions.

#### **- Article 405**

The new Article 405 of the Criminal Code is entitled "Organising or participating in the activity of a social or religious association or other organisation after a court decision banning their activity or their liquidation in connection with extremism or terrorism they have carried out".

Part 1 of the new Article punishes organising the activity of social or religious groups which have been banned for conducting extremist or terrorist activity with a fine or up to six years' imprisonment. Part 2 of this Article punishes those who participate in such banned extremist groups with a fine or up to two years' imprisonment.

This Article replicates almost exactly the crimes of the current Criminal Code Article 337-1, though with several increased penalties.

During the new Criminal Code's passage through parliament, the activity to be punished under this Article (which was numbered Article 403 in earlier drafts) was narrowed from that originally proposed (see F18News 16 May 2014 [http://www.forum18.org/archive.php?article\\_id=1959](http://www.forum18.org/archive.php?article_id=1959)). Earlier provisions punishing leading, participating in or financing unregistered religious activity which does not involve

terrorism or extremism seem likely to remain punishable (as at present) in the new Administrative Code.

However, "extremism" is frequently used by state officials to justify violations of freedom of religion or belief (see Forum 18's Kazakhstan religious freedom survey at [http://www.forum18.org/Archive.php?article\\_id=1939](http://www.forum18.org/Archive.php?article_id=1939)). Similarly, state officials have refused to make public what they consider to be "extremist" in banned religious books and what books are banned (see F18News 6 January 2014 [http://www.forum18.org/Archive.php?article\\_id=1914](http://www.forum18.org/Archive.php?article_id=1914)).

"In accordance with the humanisation of criminal legislation, several parts of Article 403 [405 in the final version] were excluded, with subsequent inclusion in the draft Code of Administrative Offences as administrative offences," the Senate Press Service claimed on 5 June as Senators made final amendments to the Criminal Code shortly before they approved it.

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## **Teacher and bookseller fined, imam's fine overturned**

Forum 18 (17.06.2014) - A teacher who hosts meetings of a religious community in her home and a bookseller are among the latest victims of Kazakhstan's policy of punishing those who exercise their right to freedom of religion or belief without state permission. Each was fined one month's average wage. However, intervention by the state-backed Muslim Board has managed to overturn a fine on one of its imams who led prayers in a Muslim Board mosque which did not have the compulsory state permission.

Kazakhstan imposes compulsory prior censorship on all religious literature printed in, distributed in or imported into the country. Moreover, only state-registered places of worship or commercial venues licensed by the regional Akimat (administration) are allowed to sell or give away such literature. Any distribution outside these venues is an offence and subject to fines (see Forum 18's Kazakhstan religious freedom survey [http://www.forum18.org/archive.php?article\\_id=1939](http://www.forum18.org/archive.php?article_id=1939)).

In early May a court ruled that half the family car belongs to a Council of Churches Baptist who had refused to pay an earlier fine to punish him for exercising the right to freedom of religion or belief. The car can therefore be used to pay off the outstanding fine (see below).

Council of Churches Baptists have a policy of refusing to apply for state registration in any of the former Soviet countries. Dozens of their members have been fined in Kazakhstan since the beginning of 2014 for exercising their right to freedom of religion or belief without state permission. The oldest, Yegor Prokopenko, was 87 when he was fined (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

Council of Churches Baptists have adopted a policy of "civil disobedience", refusing to pay fines for exercising their human rights. Ten of them have served prison terms of up to ten days so far in 2014 for such refusals to pay fines (see F18News 29 May 2014 [http://www.forum18.org/archive.php?article\\_id=1963](http://www.forum18.org/archive.php?article_id=1963)).

In other such cases, court bailiffs have seized or put restraining orders on homes, furniture, washing machines, music centres and even a calf. Many are also banned from leaving Kazakhstan.

***Fine follows police raid on worship meeting***

Larisa Lange, a teacher, hosts a local Council of Churches Baptist congregation in her home in the village of Kaynar in Kordai District of the southern Jambyl Region. Trouble began for her and her community on 9 March when Kordai District Police raided the community's Sunday meeting for worship in what they called "operational-preventative measures".

Kordai District Prosecutor's Office brought a case against Lange under Administrative Code Article 374-1, Part 2. This punishes "Participation in the activity of an unregistered, halted, or banned religious community or social organisation".

At an evening hearing on 20 March, Judge Kairat Belgishev of Kordai District Court found Lange guilty and fined her 50 Monthly Financial Indicators (MFIs), 92,600 Tenge (3,000 Norwegian Kroner, 375 Euros or 500 US Dollars). This represents about one month's average wages for those in work.

Lange confirmed to the court that she provides a room in her house for the church to meet regularly and that she takes part in the meetings, according to the court decision seen by Forum 18. But she insisted she had done nothing wrong.

Lange appealed against the decision, pointing out that the Judge had used a provision of the Administrative Code which violates Kazakhstan's constitutionally-guaranteed human rights. But on 17 April, Judge Gulnara Syzdykova of Jambyl Regional Court in Taraz rejected her appeal, according to the decision seen by Forum 18.

Kordai District Prosecutor Zhasulan Yelamanov refused to explain to Forum 18 on 17 June why his assistants had brought the administrative case against Lange to punish her for meeting with her friends for religious purposes. He then put the phone down.

### ***Bookseller fined***

On 27 May – a day before her 47th birthday – commercial bookseller Gulnar Sandibayeva was fined for selling religious books in the town of Kulsary without the compulsory state permission, according to the court decision seen by Forum 18.

On 25 February, Zhiloi District Prosecutor's Office in the western Atyrau Region had found her selling Islamic books during their inspection for "extremist" religious books. Prosecutors then asked the District imam Arman Isayev whether the books Sandibayeva was selling were "extremist". He confirmed that they were not and had been approved for sale in Kazakhstan.

Prosecutors then brought a case against Sandibayeva under Administrative Code Article 375, Part 1. This punishes "Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship".

On 27 May, Judge Gulzhiyan Mutiyeva of Zhiloi District Court fined Sandibayeva 50 MFIs, 92,600 Tenge.

The court decision reveals nothing about what is to happen to the religious books seized from Sandibayeva. Judge Mutiyeva told Forum 18 from the court on 17 June that the books are still at the court. "She can ask for them if she wants them back," the Judge insisted. However, she refused absolutely to discuss why she had fined Sandibayeva for exercising her rights to freedom of religion and freedom of speech.



### ***"It's not censorship"?***

Zhilioi District Prosecutor Aslanbek Zholanov vigorously defended the prosecution against Sandibayeva. "We have the Religion Law and on the basis of this the Akim [administration chief] adopts a decree on where religious literature can be sold," he told Forum 18 from Kulsary on 17 June. "She was selling books where it is not allowed. Only religious books can't be sold just anywhere. Books on football for example can be sold anywhere."

Asked why the state imposes such censorship on religious literature, Zholanov responded: "It's not censorship. But religious literature can only be sold in approved places." He pointed to tensions over terrorist activity in western Kazakhstan which he linked to religion. "That's why we do it."

Zholanov dismissed suggestions that such censorship contradicts the rights to freedom of religion and freedom of expression enshrined in Kazakhstan's Constitution and international human rights obligations. "We committed no violations in Sandibayeva's case."

### ***Half a car***

Roman Pugachev is the latest known Council of Churches Baptist to face the possible enforced sale of his property for his refusal to pay earlier fines. On 4 May, Judge Kanat Abubakir of Ualikhan District Court in North Kazakhstan Region ruled that the Volkswagen Multivan family car owned by his wife Yekaterina constitutes jointly-owned property, according to the court decision seen by Forum 18. Thus half the value of the car is deemed to be Pugachev's. The decision notes that "of its nature, dividing the car .. is impossible".

The court decision – made at the request of court bailiff Tynybek Temirzhanov – effectively allows the car to be sold and the half share deemed to be Pugachev's to be taken to pay the unpaid fines, Pugachev pointed out. "They now want to take it, sell it and divide the value," he lamented to Forum 18 on 17 June. "The car is already automatically under a restraining order." He said the family still have the car. "No measures have yet been undertaken."

Pugachev said he and his wife use the car to transport themselves and their nine children, and also to visit church services in other locations.

Forum 18 was unable to reach bailiff Temirzhanov on 17 June to find out why he initiated the moves to facilitate the seizure of Pugachev's family car. A colleague, who would not give her name, insisted that courts take decisions on fines and "we are just here to implement court decisions". Told that Pugachev had been fined for exercising his right to freedom of religion or belief, she responded: "It is not our business why an individual has been fined."

Court bailiffs have already placed restraining orders on household items, Pugachev noted, including their kitchen equipment. "Bailiffs told us it's theirs now. We have to keep it and look after it for them now. We can use it but can't sell it."

Pugachev was twice fined in 2013. In January 2013 Ualikhan District Court fined him 100 MFIs, 173,100 Tenge, under Article 374-1, Part 1. This punishes "Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation". In July 2013, the same court fined him 5 MFIs, this time under Administrative Code Article 524 for refusing to pay the earlier fine (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

### ***Exit ban***

Pugachev is among more than 25 Council of Churches Baptists known to be on the Justice Ministry's list of debtors unable to leave Kazakhstan (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

"I only found out I was on the ban list in early 2013 when I tried to cross the border to take part in a church meeting in neighbouring Kyrgyzstan," Pugachev told Forum 18. "They should inform you in writing, but I only got the notification about two months after that."

Although Pugachev and his wife have relatives in Israel and Ukraine, he is unable to go to visit them. "My wife doesn't want to go without me," he told Forum 18.

### ***Imam's fine overturned***

Imam Yerkebulan Nukasov, named by the Muslim Board to the Zhana Hayat mosque in Almaty's Turksib District in June 2013, was punished because the mosque does not have state registration. On 18 February 2014, an officer of Turksib District police drew up a record of an offence against the 32-year-old imam under Administrative Code Article 374-1, Part 1. Photos illustrating the "offence" were attached.

On 26 February, Judge Rauza Musakodzhayeva of Almaty Inter-District Specialised Administrative Court fined Nukasov 100 MFIs, 185,200 Tenge (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

Nukasov pointed out to the court that the spouse of the owner of the house where the mosque was located had died and for the following six months the law did not allow any change of ownership or usage, according to the court decision seen by Forum 18. For that reason the mosque had no registration and functioned as a namazkhana where only prayers were recited and no sermons given. Despite this, an official of the Prosecutor's Office insisted Nukasov had committed an offence and Judge Musakodzhayeva agreed.

However, Nukasov appealed against the decision to Almaty City Court. The 8 April appeal hearing – presided over by Judge Roza Ainakulova – was also attended by an officer of the Police's Department for the Struggle with Extremism, as well as S. Dauletiyar representing the Muslim Board. Despite the resistance of the Prosecutor's Office official, Judge Ainakulova granted the appeal and cancelled the fine.

The court decision – seen by Forum 18 – notes that police questioning of witnesses in February had established that mosque attendees are Hanafi Sunni Muslims and that the preamble to the 2011 Religion Law "recognises the historical role of Islam of the Hanafi school and Orthodox Christianity in the development of the culture and spiritual life of the nation". Moreover, Nurlan Zhaparkula, head of Almaty Akimat's Religious Affairs Department, had written to the court to say the Muslim Board had told it that Nukasov had been named imam of the mosque.

### ***Four cases thrown out***

Police, prosecutors and Religious Affairs Department officials often bring cases that fail to end in prosecution, either because paperwork is not correctly filled in, procedures are not followed or the cases are filed too late. However, individuals have pointed out to Forum 18 the time, expense and energy these cases absorb, even when they do not end in punishment, as well as the stress they cause to individuals (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

Cases against four Council of Churches Baptists in the northern Akmola Region for "illegally" distributing religious literature were thrown out on 22 April because they were filed too late, according to the court decisions seen by Forum 18.

On 12 September 2013, Yury Bekker, Svetlana Tsuba, Andrei Leven and David Leven were among a group of Baptists distributing Christian literature in the village of Kyzylsai in Zhakysy District without state permission. Zhakysy Police investigated the case and compiled a 73-page dossier. On 15 September, Zhakysy Police ruled that no criminal offence had taken place, at least until an "expert analysis" of the literature had taken place.

On 6 January 2014 Zhakysy Police again determined that no criminal offence had taken place. On 20 March the chief specialist of Akmola Region Akimat's Religious Affairs Department drew up a record of an administrative offence against the Baptists under Article 375, Part 1. The case was then presented to court.

However, at separate hearings on 22 April, Judge Arai Zhakupov of Zhakysy District Court ruled that the 6 January 2014 Police determination had been drawn up illegally, as the 15 September 2013 determination was still in force. Therefore the three-month deadline for bringing administrative cases had expired on 15 December 2013. The Judge threw out each of the four cases.

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## **Drink vodka – yes, watch football – yes, praying – no**

By Felix Corley

Forum 18 (29.05.2014) - The leader of a Baptist congregation in Semei in East Kazakhstan Region, which chooses to meet for worship without state permission, began a ten-day prison term on 27 May. Viktor Kandyba had refused to pay a fine handed down in 2013 for leading the church. Prosecutor's Office official Bolzhan Botbayev, who brought both cases to court, struggled to explain why Kandyba has the right to gather friends to drink vodka or watch football on television but not to meet for worship. "The law says they must have registration before they are allowed to meet," he insisted to Forum 18. Kandyba is the tenth known Baptist to be given a short-term prison sentence in 2014 for refusing to pay fines for exercising the right to freedom of religion or belief. "I can't agree that these imprisonments are a violation of human rights," Rustam Kypshakbayev of the government's Ombudsperson's Office for Human Rights told Forum 18. Those who lead unregistered religious communities will face up to 60 days' imprisonment if the new Criminal Code now in the Senate is adopted in current form.

Prosecutor's Office official Bolzhan Botbayev defends the 10-day prison term handed down on 27 May to Viktor Kandyba for refusing to pay a fine for leading an unregistered meeting for worship in his home. Asked by Forum 18 News Service if Kandyba has the right to invite friends to drink vodka in his home, Botbayev responded: "Yes, he has the right." Asked if Kandyba has the right to invite friends to watch football on television, he responded: "Yes." Asked if Kandyba has the right to invite friends to pray, he responded: "No, not if the community is not registered."

Botbayev, assistant to the Prosecutor in Semei [Semipalatinsk] in East Kazakhstan Region, led the administrative case against Kandyba in court. He struggled to explain to Forum 18 on 29 May why those who drink vodka or watch football together in private homes are treated differently to those who gather for religious meetings.

Told that Kandyba and his fellow Council of Churches Baptists repeatedly point out that Kazakhstan's Constitution guarantees them the right to freedom of religion or belief, Botbayev insisted to Forum 18 on 29 May: "The law says they must have registration before they are allowed to meet."

Galym Shoikin, Deputy Chair of the Agency of Religious Affairs (ARA) in Astana, refused to discuss Kandyba's imprisonment on 29 May. He put the phone down as soon as Forum 18 had introduced itself.

But officials of the government's Ombudsperson's Office for Human Rights did not consider that Kandyba's human rights have been violated (see below).

### **2013 raid and fine**

Kandyba and his congregation in Semei have faced repeated state harassment for meeting for worship without the compulsory state permission. Police have frequently raided the church, while Court Bailiffs imposed a restraining order on Kandyba's home and car in 2007 for unpaid fines. The restraining orders remain in force seven years later, local Baptists complained to Forum 18.

The most recent trouble for Kandyba began when police raided the Sunday morning meeting for worship of his congregation in Semei on 12 May 2013, just two weeks after a previous raid. Although ten other church members were fined between June and mid-July 2013 (including one of Kandyba's sons, Maksim – see below) for participating in an unregistered religious organisation, Viktor Kandyba was not immediately brought to court.

However, on 24 July 2013 Semei Specialised Administrative Court fined Kandyba for leading an unregistered religious community, a fact he freely admitted in court, according to the court decision seen by Forum 18. He was punished under Administrative Code Article 374-1, Part 1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation").

Judge Nurlan Nuralinov fined Kandyba 100 Monthly Financial Indicators (MFIs), 173,100 Tenge (6,700 Norwegian Kroner, 880 Euros or 1,150 US Dollars). This is about two months' wages for those in work.

East Kazakhstan Regional Court rejected Kandyba's appeal on 25 September 2013 (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

Kandyba refused to pay the fine, considering he had committed no offence for which he should be punished. The case was then handed to the Court Bailiffs. Three Bailiffs "long tried to persuade him to pay at least part of the fine in instalments, but he refused," local Baptists told Forum 18 on 28 May.

### **Ten day imprisonment**

Botbayev, the same Prosecutor's Office official who had led the case in July 2013, then brought a new case to court, this time under Administrative Code Article 524. This punishes "Failure to carry out court decisions". He demanded the maximum punishment of ten days' imprisonment.

On 27 May, Judge Gibrat Valiyev of Semei Specialised Administrative Court upheld the Prosecutor's Office request and sentenced Kandyba to the maximum punishment under Article 524 of ten days' imprisonment, according to the court decision seen by Forum 18. During the trial, Kandyba repeated his innocence of any offence "and because of this has no intention of paying the fine".

The court decision says Kandyba had to be given the maximum term of imprisonment because of the "social danger" of his "intentional" refusal to pay and his refusal to recognise his "guilt".

Botbayev insisted to Forum 18 that the "social danger" consisted of Kandyba's wilful refusal to fulfil a court order. "If he's not happy with the decision, he can lodge an appeal," he insisted to Forum 18.

"Viktor was arrested right in the court room to begin serving his sentence," local Baptists told Forum 18. They added that the trial was filmed by local television.

Forum 18 was unable to reach Judge Valiyev on 29 March to ask which he handed down a term of imprisonment to punish Kandyba for exercising his right to freedom of religion or belief. His assistant told Forum 18 that the Judge was in hearings.

### ***Hearing filmed***

Sholpan Rakhimzhanova, assistant to Court head Kenzhesh Mukashov, told Forum 18 that her boss had given permission to local television channel TVK-6 to film the trial at the request of the Court Bailiffs. "We often have local television filming hearings," she insisted. She said she did not know if the channel has already aired the footage.

Telephones went unanswered at TVK-6 in Semei when Forum 18 called on 29 May.

Television channels have in the past shown footage of court cases against individuals for exercising their right to freedom of religion or belief. Such coverage has often been accompanied by hostile commentary (see F18News 26 October 2009 [http://www.forum18.org/archive.php?article\\_id=1367](http://www.forum18.org/archive.php?article_id=1367)).

### ***Harsher Article 524 punishments***

Administrative Code Article 524 was amended on 15 January 2014 to increase the fines for individuals from a maximum of 10 MFIs to between 10 and 20 MFIs for individuals and between 20 and 30 MFIs for people acting in an official capacity. The other possible punishment for individuals, short term-imprisonment – previously "up to ten days" – was changed to "between five and ten days". These amendments came into force ten days after the 18 January official publication.

Thus Article 524 punishments of 2 days' imprisonment given to fellow Council of Churches Baptists Vyacheslav Cherkasov and Zhasulan Alzhanov on 9 January are no longer possible (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

The new Administrative Code now going through the upper house of Parliament, the Senate, is due to include fines under the new Article 645 similar to the pre-January 2014 Article 524 fines. According to the text as it completed passage in the lower house of Parliament, seen by Forum 18, punishments would be fines of 10 MFIs on individuals and 20 MFIs on people activity in an official capacity "if the offence does not bear a criminal nature".

### ***Tenth known 2014 imprisonment***

Kandyba, a father of 17 who had his 47th birthday on 8 May, is the tenth Council of Churches Baptist known to have been given a prison term of up to ten days in 2014 for refusing to pay earlier fines to punish them for exercising their right to freedom of religion or belief. One of those imprisoned earlier this year was one of his sons, Maksim

Kandyba, given a ten-day prison term in January. Maksim Kandyba is among many Council of Churches Baptists to be banned from travelling abroad because of unpaid fines (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

Council of Churches Baptists have adopted a policy of civil disobedience, refusing to pay fines imposed for meeting for worship without compulsory state registration. Council of Churches Baptists think such fines are wrong, as neither Kazakhstan's Constitution nor the country's international human rights obligations allow punishments for exercising human rights without state permission.

### ***"No violation" says Ombudsperson's Office***

Officials at the government's Ombudsperson's Office for Human Rights in Astana rejected suggestions that the human rights of those like Kandyba punished for exercising their right to freedom of religion or belief have been violated. "I can't agree that these imprisonments are a violation of human rights," Rustam Kypshakbayev of its Expert Department insisted to Forum 18 from Astana on 29 May. "Courts are independent and they take such decisions."

His colleague Alibek Sabdinov agreed. "I don't agree that such cases are against the Constitution and Kazakhstan's international commitments," he told Forum 18 the same day.

Neither Kypshakbayev nor Sabdinov were able to explain what the Ombudsperson's Office had done to try to protect individuals punished for exercising their right to freedom of religion or belief. "We deal with individual complaints," Sabdinov said. "We observe and make recommendations on concrete questions." He refused to say how this might have helped individuals facing such punishments.

(The office of Kazakhstan's Ombudsperson for Human Rights is not fully compliant with the Paris Principles on the independence of such national human rights bodies from government, according to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.)

### ***Fines, fines***

Individuals from a range of communities – as well as commercial booksellers – face constant fines for exercising their right to freedom of religion or belief. They are punished for selling or distributing religious books without the compulsory state licence, meeting for worship without state permission or talking about their faith with others without the compulsory personal registration as a "missionary".

More than 150 individuals – including Protestants, Jehovah's Witnesses, Muslims and Hare Krishna devotees – were known to have been given administrative fines in 2013. More than 40 such fines are known to have been handed down in the first ten weeks of 2014 alone, one of them on an 87-year-old man, Yegor Prokopenko (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

### ***Harsher punishments to come in new Codes***

Harsher punishments for exercising the right to freedom of religion or belief seem set to be introduced if the new Criminal Code and new Administrative Code now going through the upper house of Parliament, the Senate, are adopted in their current form. Human rights defenders have heavily criticised many provisions of these Codes.

The "offence" for which Kandyba was originally punished – leading an unregistered

religious community – would become a criminal offence under proposed Criminal Code Article 403. The maximum punishment is set to be up to 60 days' imprisonment (see F18News 16 May 2014 [http://www.forum18.org/archive.php?article\\_id=1959](http://www.forum18.org/archive.php?article_id=1959)).

The full Senate is due to hold its first reading of the new Criminal Code on 30 May, the Senate website notes. The draft, after discussion in the Working Group established in the Senate, was approved by the Senate Legal Committee on 27 May.

Also due for its first reading on 30 May is the proposed new Criminal Implementation Code. This would require religious literature in prison libraries to have undergone the compulsory ARA religious censorship and would also ban the construction of places of worship in prisons (see F18News 16 May 2014 [http://www.forum18.org/archive.php?article\\_id=1959](http://www.forum18.org/archive.php?article_id=1959)).

The Senate has not yet set a date for the first reading of the proposed new Administrative Code.

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## **"Not accused of extremism", but punished**

By Felix Corley

Forum 18 (21.05.2014) - *Nauatbek Kalymbetov, head of Jambyl Region Police's Department for the Struggle against Extremism, personally questioned two Jehovah's Witnesses detained for talking to others about their faith on a Taraz street. His department sent a report to court when the two were fined two months' average wages each. Yet he repeatedly refused to explain why punishing two women for speaking to others about their faith was an issue for his Department. "I'm not accusing them of extremism, but they broke the law," Kalymbetov insisted to Forum 18 News Service. Dozens of administrative fines for exercising the right to freedom of religion or belief are known to have been issued across Kazakhstan in 2014 so far. A new Administrative Code now in the upper house of parliament would require deportation even for Kazakh citizens who conduct "missionary activity" without the required personal prior state permission. And religious communities which commit two "offences" within a year could be banned permanently.*

The head of Jambyl Region Police's Department for the Struggle against Extremism has defended his role in the administrative punishment of two female Jehovah's Witnesses for speaking to others about their faith on the street. "Several of my officers were sent when the women were detained and I spoke to them at the police station," Nauatbek Kalymbetov told Forum 18 News Service from the regional capital Taraz close to Kazakhstan's southern border on 21 May.

But he repeatedly refused to say why punishing two women for speaking to others about their faith was an issue for the Department for the Struggle against Extremism. "I'm not accusing them of extremism, but they broke the law," Kalymbetov insisted to Forum 18. He refused to discuss any other aspect of the case and put the phone down.

The court decisions in the cases reveal the range of state agencies involved in securing punishment, Forum 18 notes. Officers from local police station No. 12 in Taraz's Second Police District detained the two women on 22 January, while the Department for the Struggle against Extremism interrogated the two and prepared a written report for the court.

Prosecutor's Office officials took statements from least three neighbours of each of the two women to establish that they are Jehovah's Witnesses, as well as other individuals not identified in court documents.

Prosecutors also asked the Jambyl Regional Religious Affairs Department to confirm that the two women did not have the personal registration as "missionaries" requested by a registered religious community before anyone – whether a Kazakh or foreign citizen – has the right to talk about their faith to others outside their community.

### ***Fined***

The cases were then handed to court. On 28 March, Judge Kamar Usembayeva of Taraz Specialised Administrative Court found Tatyana Vongai and Oksana Alekseyeva guilty of violating Administrative Code Article 375, Part 3, according to the decisions seen by Forum 18.

Article 375, Part 3 punishes "The carrying out of missionary activity by citizens of the Republic of Kazakhstan, foreigners and persons without citizenship without registration (re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment of a religious studies expert analysis".

Judge Usembayeva fined each of them 100 Minimum Financial Indicators (MFIs), 185,200 Tenge (6,000 Norwegian Kroner, Euros or 1,000 US Dollars). This is about two months' average wages for those in work. However, the 59-year-old Vongai is a pensioner, while the 37-year-old Alekseyeva does not have a job.

In court, the man who the two women approached outside the student polyclinic, S. Suimbayev, said he had called the police after they began discussing their faith with him. He told the court that police had asked him to hold on to the women to stop them leaving until they arrived and he had done so, holding at least one of the women.

Forum 18 was unable to find out why the local police appear to have asked Suimbayev to hold at least one of the women and why they had sought their detention. The telephone of Lieutenant-Colonel Nariman Aliyev, head of its Second Police District, went unanswered each time Forum 18 called on 21 May. The duty officer declined to discuss the case, saying only Aliyev or Police Station No. 12 could respond. The officer who answered the phone at Police Station No. 12, who gave his name only as Yermek, told Forum 18 he had only worked there for three months. He said no one who had been there in January was present.

Vongai and Alekseyeva appealed against their convictions and fines, but in separate hearings at Jambyl Regional Court on 18 April, Judge Gulnar Syzdykova rejected both their appeals, according to the decision seen by Forum 18.

### ***Third prosecution this year***

The punishments handed down on Vongai and Alekseyeva in Taraz – and the efforts of a wide range of officials from different state agencies to secure the punishments – are typical of many similar prosecutions under the Administrative Code to punish individuals for exercising their right to freedom of religion or belief. More than 40 such administrative punishments are known to have been handed down in the first ten weeks of 2014 alone

(see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

In another recent case, Shymkent-based Muslim Bakytzhan Nuskabayev is facing a third administrative prosecution this year. His latest case is due to be heard at Shymkent's



Specialised Administrative Court on 29 May, according to the court. He faces prosecution under Administrative Code Article 375, Part 1.

Article 375, Part 1 punishes "Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship".

On 17 February, Judge Marat Onlasov of the Specialised Administrative Court had found Nuskabayev guilty under Administrative Code Article 375, Part 3 for carrying out "missionary activity" on 14 January. He fined him 100 MFIs.

The same judge at the same court also fined Nuskabayev 100 MFIs under Article 375, Part 1 on 6 March, according to the decision seen by Forum 18. He was accused of duplicating 27-page booklets on the Tabligh Jamaat missionary movement in a private flat on 9 January.

The Tabligh Jamaat movement was declared "extremist" and banned by a District Court in Astana in February 2013. The Regional Religious Affairs Department had warned Nuskabayev in writing on 4 March that the movement was illegal.

However, the court decisions in Nuskabayev's case make no mention that the publication he was copying or his "missionary activity" was extremist.

Forum 18 was unable to reach either of the two officials involved in the case at Shymkent's Enbekshi District Prosecutor's Office on 21 May. Zh. Tulegenova – who had led the first prosecution in court – was unavailable, while Meruet Dosmakhanbetova – who had led the second prosecution – was out at a court hearing, colleagues told Forum 18.

### ***Other fines for sharing faith***

Among other recent administrative punishments for exercising the right to freedom of religion or belief, a second Jehovah's Witness in Oskemen - Akmaral Serikova – was fined 100 MFIs at the town's Specialised Administrative Court on 28 March. The punishment was handed down under Administrative Code Article 375, Part 3, according to the verdict seen by Forum 18.

The same court had fined her fellow Jehovah's Witness Gulsuna Kadenova on the same charges on 13 February (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

East Kazakhstan Regional Court rejected Kadenova's appeal on 13 March and Serikova's on 23 April, according to the decisions seen by Forum 18.

### ***More commercial booksellers fined?***

Commercial booksellers who sell religious literature without the required special licence to do so are often fined. Three such named individuals are known to have been fined in the first ten weeks of 2014 (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

The deputy head of Kostanai Regional Administration, Serik Bekturganov, announced on 16 May that nine individuals in the Region had been discovered in the first three months of 2014 distributing religious literature "illegally" without the required state permission,

according to the administration website. He did not indicate if the nine individuals were warned or fined. Nor did he identify the nine and Forum 18 has been unable to identify them.

### ***Nearly punished***

Two Jehovah's Witnesses narrowly avoided punishment under Administrative Code Article 375, Part 3 for talking about their faith with others. On 4 May, Kurchatov Town Court in East Kazakhstan Region closed the cases against Sergei Kucherin and Mikhail Tsurkan as the deadline for bringing such cases had expired, the court chancellery told Forum 18 on 21 May.

The cases against Kucherin and Tsurkan were launched in December 2013. However, the court initially sent them back because officials had not prepared the cases properly (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

In another case, commercial bookseller Gulzhibek Baltagireyeva had her earlier fine overturned on appeal at North Kazakhstan Regional Court on 17 March, according to the decision seen by Forum 18. The court ruled that the deadline for considering such a case had expired by the time the case was brought to the lower court.

Baltagireyeva had been fined 100 MFIs on 17 February by Taiynsha District Court under Article 375, Part 1 for selling religious materials in her shop without the required state licence to sell such materials (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

### ***New proposed administrative punishments***

A proposed new Administrative Code is currently being considered by the Senate, the upper house of Parliament. The draft, prepared by the Justice Ministry, reached the Majilis (lower house) in November 2013. It was approved on second reading there on 30 April 2014 and sent to the Senate on 12 May. The Senate website gives a deadline for adopting the new Code of 10 July. Once approved, the new Code would come into force three months after its official publication.

The Senate is also considering a proposed new Criminal Code and a new Criminal Implementation Code. Both have also already been approved by the Majilis. Human rights defenders have heavily criticised provisions in all three proposed new Codes.

Leading or taking part in a meeting for a religious purpose without state permission will – if the proposed new Codes are adopted in the current form – be punished in future as criminal rather than administrative "offences" (see F18News 16 May 2014 [http://www.forum18.org/archive.php?article\\_id=1959](http://www.forum18.org/archive.php?article_id=1959)).

In the draft new Administrative Code, other current "offences" have been transferred to a new Article 475, which punishes "Violating the law on religious activity and religious associations", according to the text now in the Senate and seen by Forum 18.

Part 1 would punish violating procedures for: conducting religious rituals; carrying out charitable activity; importing, publishing or distributing religious books, materials and items; and building new places of worship or changing the designation of buildings into places of worship. Punishments would be fines on individuals of 50 MFIs, and on legal entities of 200 MFIs with a three-month suspension of their activities.

Part 2 punishes those who obstruct others' legal religious activity, insult religious feelings or desecrate sacred buildings or objects.

Part 3 punishes carrying out missionary activity without personal state permission to do so, whether by Kazakh or foreign citizens, as well as using for this religious literature which has not been approved under the compulsory prior censorship of all printed, published or imported religious literature. Punishments would be fines on individuals of 100 MFIs with deportation from the country. Bizarrely, this provision would require Kazakh citizens to be deported from their own country for exercising the right to freedom of religion or belief.

Part 4 punishes registered religious associations which carry out activity not specifically included in their statute. Punishments would be fines on religious leaders of 200 MFIs, and on legal entities of 300 MFIs with a three-month suspension of their activities.

Part 5 punishes religious associations for political activity or financing political activity, or for interfering in the activity of state bodies.

Part 6 punishes forming branches of religious organisations in state bodies and institutions, including health and educational institutions. Punishments would be fines on officials of 100 MFIs, and on legal entities of 200 MFIs.

Part 7 punishes leading a religious association if the individual has been appointed by a foreign religious body without the prior approval of the government's Agency of Religious Affairs, as well as failure by religious leaders to take measures to prevent children from participating in religious activity against the wishes of at least one parent or guardian. Punishments would be fines of 50 MFIs with deportation from the country. Bizarrely, this provision too would require Kazakh citizens to be deported from their own country for exercising the right to freedom of religion or belief.

Part 8 punishes repeat "offences" under Parts 1, 2, 3, 4 and 6 of this Article within a year of a previous punishment. New punishments would be a fine on individuals of 200 MFIs, on legal entities of 500 MFIs and a ban on their activity.

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## **Two months' jail for religious meetings without state permission?**

By Felix Corley

Forum 18 (16.05.2014) - Those who lead meetings for religious purposes without state permission could face up to 60 days' imprisonment under provisions of the new Criminal Code now in the Senate, the upper house of Kazakhstan's Parliament. Those who participate in but do not lead this exercise of the human right to freedom of religion or belief could face up to 45 days' imprisonment, according to the current text seen by Forum 18 News Service.

These "offences" are currently punished with fines under the Code of Administrative Offences.

Another provision which would have prescribed punishments of up to four months' imprisonment for a second "offence" of sharing one's faith was removed during the Criminal Code's passage through the Majilis, the lower house of Parliament. Deputies argued that the "offence" is already punished under the proposed new Code of Administrative Offences.

Human rights defenders and members of religious communities remain highly concerned about such proposed punishments in the Criminal Code and the Code of Administrative Offences which has also passed through the Majilis. Both these new Codes – together with the new Criminal Implementation Code, which covers the treatment of prisoners and specifically bans building places of worship in prisons – are now being considered in the Senate.

"Significant changes to these Codes are unlikely now at this late stage," one human rights defender closely following developments told Forum 18 on 16 May. "They're likely to be completed and signed before the break for the summer holidays in early July. We say it's better for them not to be adopted at all, and if they are, we hope the harsh measures punishing religious activity won't be used."

### ***Texts not published***

No consolidated text of any of these three Codes as approved by the Majilis and now in the Senate have been published. For the Criminal Code a legal portal has published a comparative table of at least some Majilis amendments, but no full text.

Forum 18 has seen the text of the proposed new Criminal Code and the proposed new Criminal Implementation Code as approved by the Majilis and now in the Senate. However, it has been unable to obtain the text of the Administrative Code as approved by the Majilis and now in the Senate. Officials refused Forum 18's request for the text.

### ***"We have religious freedom"?***

Telegen Dertayev, a consultant on the Senate Legal Committee who is involved with these new Codes, said that reports of the Committee's meetings and of its Working Groups' meetings on these draft Codes would be published. However, he told Forum 18 from the capital Astana on 16 May that the public would not be able to attend these meetings unless they get special permission from the Legal Committee's leadership.

Dertayev said he does not know when the draft Codes are likely to reach the full Senate. But he pointed out that procedure requires the Senate to complete passage of draft laws within 60 days of receipt from the Majilis.

Asked why provisions of these Codes restrict individuals' rights to freedom of religion or belief, Dertayev insisted that "we have religious freedom". He declined to discuss any specific provisions of any of the three Codes.

### ***"Considerably restricting and harming human rights"***

A total of 119 local human rights groups, individuals and international human rights groups signed a joint statement condemning the proposed new Codes as "considerably restricting and harming human rights". The statement, posted on the website of the Kazakhstan International Bureau for Human Rights and the Rule of Law on 22 April, noted that "the reasoned proposals from civil society were ignored".

"In complete contradiction with the Constitution and the norms of the International Covenant on Civil and Political Rights, Kazakhstan's laws unequivocally make the profession by an individual of a religion dependent on having several dozen, hundreds or even thousands of fellow-believers," the joint statement complains. "The draft Criminal Code harshens punishment for violating this undemocratic provision."

The human rights defenders' statement also condemned provisions of the proposed Administrative Code which would punish even those social and religious groups which have state permission to exist, but which commit "even the slightest violation of a technical nature", with suspension of their activity. They could also be punished for any activity outside their registered statute. "This provision arouses particular concern especially in relation to religious associations," the human rights defenders' warn.

In violation of Kazakhstan's international human rights obligations, the exercise of freedom of religion or belief without state permission is already banned.

### ***New Criminal Code punishments***

The proposed text of the new Criminal Code was prepared by the General Prosecutor's Office. It reached the Majilis in October 2013. It was approved on second reading there on 9 April 2014 and sent to the Senate on 17 April, according to the Majilis website. The Senate website gives a deadline for adopting the new Code of 15 June. Almost all provisions of the new Code would come into force on 1 January 2015.

The new Criminal Code is being handled by the Senate's Legal Committee. The Working Group initially considering the draft is led by Senator Dulat KUSDAVLETOV.

### ***New penalties***

Two new Articles introduce new penalties for exercising the right to freedom of religion or belief.

- Article 402

A new Article 402 is entitled "Creation, leadership or participation in the activity of illegal social or other associations". This replicates exactly the crimes of the current Criminal Code Article 337, though with several increased penalties.

Part 1 of this Article would punish: "Creation or leadership of religious or social organisations whose activity involves violence against citizens or the causing of other harm to their health, or the incitement of citizens to refuse to carry out their civil obligations or to carry out other illegal activities, as well as the creation or leadership of parties on a religious basis or political parties and professional unions financed from sources banned by the laws of Kazakhstan".

The existing Criminal Code Article 337 was used in the trial of retired Pentecostal Pastor Bakhytzhhan KASHKUMBAYEV.

Punishments for violating Part 1 of the new Article 402 would be a fine of up to 6,000 Monthly Financial Indicators (MFIs), or corrective labour "up to the same level", or up to six years' restrictions on freedom or imprisonment, with restrictions on conducting certain unspecified activity for up to six years.

The MFI is set annually, and since 1 January 2014 has been 1,852 Tenge (60 Norwegian Kroner, 7 Euros, or 10 US Dollars). 50 MFIs are equivalent to about one month's average salary.

Part 2 of this Article would punish: "Creating social associations aimed at the incitement of racial, national, clan, social, class or religious intolerance or exclusivity, calling for the violent overthrow of the Constitutional order, subversion of state security, or infringing the state's territorial integrity, as well as leadership of such associations". This would be

punished by imprisonment of between three and seven years, with restrictions on conducting certain unspecified activity for up to three years.

Part 3 of this Article punishes "active participation" in Part 1 or 2 offences. This would lead to almost the same punishments as Part 1, though without any possible ban on conducting certain unspecified activity.

- Article 403

A new Article 403 of the Criminal Code is entitled "Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation".

Parts 1 to 3 are completely new as criminal "offences", being currently punished under Administrative Code Article 374-1.

Part 1 of the new Article 403 punishes leaders of social or religious communities or associations which are unregistered, suspended or banned with fines of up to 200 MFIs, corrective labour "up to the same level", up to 180 hours of community service or up to 60 days' detention.

Part 2 of this Article punishes those who participate in such activity with fines of up to 100 MFIs, corrective labour "up to the same level", up to 120 hours of community service or up to 45 days' detention.

Part 3 of this Article punishes financing such activity with a fine of up to 200 MFIs, corrective labour "up to the same level", up to 180 hours of community service or up to 60 days' detention, with the possibility also of confiscation of property.

Part 4 of the new Article punishes organising the activity of social or religious groups which have been banned for conducting extremist or terrorist activity. Part 5 of this Article punishes those who participate in such banned extremist groups. These two Parts of Article 403 replicate almost exactly the crimes of the current Criminal Code Article 337-1, though with several increased penalties.

### ***New administrative offences***

The proposed text of the new Administrative Code was prepared by the Justice Ministry. It reached the Majilis in November 2013. It was approved on second reading there on 30 April 2014 and sent to the Senate on 12 May, the Majilis Legal Committee told Forum 18 on 15 May.

The new Administrative Code is being handled by the Senate's Legal Committee. The Working Group initially considering the draft is led by Senator Lyudmila Poltorabtko.

Azamat Bekperov, the official representing the Justice Ministry in the Senate Working Group consideration of the new Code, refused to give Forum 18 a copy of the text as approved by the Majilis. He said the Working Group is due to begin its consideration in the week beginning 19 May.

It is clear from other documentation that the wide range of punishments for exercising the right to freedom of religion or belief continue in the new Code's Article 475. The Justice Ministry draft which was sent to the Majilis in late 2013 includes an eight-point Article 475 which replicates many of the provisions of the current Article 375 (see below). It remains unclear whether any of the provisions of this Article have been amended during the Code's passage through the Majilis.

One bizarre provision of the 2013 Justice Ministry draft of the new Code's Article 475 specifies fines on and deportation of anyone named to head a foreign religious organisation in Kazakhstan without the approval of the government's Agency of Religious Affairs or leaders of religious organisations who fail to take measures to prevent young people from participating in religious activity against the wishes of their parents. This could lead – if adopted in the 2013 version – to a court ordering the deportation from Kazakhstan of a Kazakh citizen.

Asked about why the new Code appears to be continuing the punishments for exercising the right to freedom of religion or belief which are included in the current Code, Bekperov declined to comment. "The text was agreed by the government as a whole," he insisted to Forum 18 from Astana on 15 May. "It is too late for us to organise amendments."

### ***Proposed Criminal Code Article 404 dropped***

A proposed Article 404 of the Criminal Code was entitled "Violation of the legislation on religious activity and religious associations". This Article, which would have been entirely new in the Criminal Code, would have punished "Carrying out of missionary activity without registration (or re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a corresponding positive religious studies expert conclusion" if such activities have been conducted within one year of punishment for the corresponding administrative offence with punishment of up to four months' detention.

However, this proposed Article was withdrawn during the proposed new Criminal Code's passage through the Majilis. The Majilis' Legal Committee ruled that these "offences" were already covered by Article 475 of the proposed new Administrative Code and so voted to exclude it.

Although criminal punishments have often been threatened against individuals exercising their right to freedom of religion or belief, Criminal Code charges have not often been brought. Two cases where an individual was subject to criminal punishments were Protestant Pastor Vissa Kim, as well as Sergei Mironov.

### ***New Criminal Implementation Code***

The proposed text of the new Criminal Implementation Code was prepared by the Interior Ministry. It reached the Majilis in October 2013. It was approved on second reading there on 23 April 2014 and sent to the Senate on 30 April, according to the Majilis website. Almost all provisions of the new Code would come into force on 1 January 2015.

The new Criminal Implementation Code is being handled by the Senate's Legal Committee. The Working Group initially considering the draft is led by Senator Yermek Zhumabayev.

Article 13 covers "the rights of those sentenced to freedom of conscience and religion". It states that participation in religious rites is voluntary, adding that in carrying out religious rites, "the rules of internal order of the institution are to be observed". At the request of prisoners or their relatives, "in cases of ritual necessity" a priest from a registered religious organisation is invited. Article 32 specifies that priests, journalists and others need "special permission from the administration of these institutions or higher bodies" to visit places of detention.

The prison administration "secures the conditions for carrying out religious rituals", as well as guaranteeing the security of the priest. Article 16 specifies that the state body in

charge of the penitentiary system draws up "an instruction for creating conditions for the carrying out of religious rites by those sentenced to deprivation of freedom".

However, Article 13 Part 6 states categorically: "The construction of places of worship (buildings) on the territory of institutions or organs implementing punishments is banned."

Article 104, which covers the "rights and responsibilities of those sentenced", notes that prisoners have the right of access in the prison library at set times to "religious literature which has received a positive conclusion of a religious studies expert analysis".

Article 110 specifies that prisoners may have literature, but bans them from having literature of certain types, including "extremist" literature and literature promoting "social, racial, ethnic, religious, class or tribal superiority". (The final clause of this Article – which would have banned prisoners from having religious literature of their own while in prison – was removed during the proposed Code's passage through the Majilis, Forum 18 notes.)

Under Article 8, registered religious organisations are among groups able to assist in monitoring prisons, rehabilitating prisoners and proposing improvements to the prison system.

Forum 18 notes that the Code's controls on exercising the right to freedom of religion or belief in places of detention mirror those in the country more widely. Religious literature must be censored in advance by the government's Agency of Religious Affairs, while only registered religious communities are recognised.

However, as many of these provisions appear to be vaguely worded, how they are implemented will determine whether Kazakhstan's prisoners will be able to avail themselves of their right to freedom of religion or belief.

Soon after the harsh 2011 Religion Law and other legal amendments were adopted, the authorities began closing mosques and Russian Orthodox prison chapels.

One human rights defender told Forum 18 that prisoners already face difficulties having religious literature.

### ***Current Administrative Code articles***

Article 374-1 and Article 375 in the current Code of Administrative Offences punish exercising the right to freedom of religion or belief, in violation of Kazakhstan's international human rights commitments. Such punishments are frequently deployed, with 39 known such fines in the first ten weeks of 2014 alone.

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## **Kazakhstan: Jailed over Easter; new deportation order**

By Felix Corley, Forum 18 News Service

Forum 18 (22.04.2014) - Imprisoned for six days over Easter was Council of Churches Baptist Denis Yenenko. He refused to pay a fine in 2013 imposed to punish him for leading worship without the compulsory state permission. His family only learned of his imprisonment when police called, relatives told Forum 18 News Service. "He wasn't fined



for praying to God," a Prosecutor's Office official claimed to Forum 18. "He committed an offence and made no attempt to pay the fine." Yenenko is the eighth known Council of Churches Baptist to be given a short prison term in 2014 so far. Jehovah's Witness Yuri Toporov, a Russian citizen married to a Kazakh citizen, has lost his appeal against a fine and deportation to punish him for addressing his own religious community without state registration as a "missionary".

Due out of prison in Sergeyevka in North Kazakhstan Region at lunchtime tomorrow (23 April) is Denis Yenenko. The 31-year-old Baptist, who is married with three young children, will have completed a six-day prison term – which included his Easter. He was imprisoned to punish him for refusing to pay an earlier fine to punish him for exercising the right to freedom of religion or belief, according to court documents seen by Forum 18 News Service.

Yenenko is the eighth known Council of Churches Baptist to be given a short prison term in 2014 so far.

Council of Churches Baptists refuse on principle to seek state permission to be able to meet for worship. As many as 33 of the 39 known administrative fines handed down in the first ten weeks of 2014 to punish individuals for exercising the right to freedom of religion or belief were on their members. The oldest of those fined, Yegor Prokopenko, was aged 87 and three months. They also have a policy of civil disobedience, refusing to pay such fines (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

Meanwhile Jehovah's Witness Yuri Toporov has lost his appeal against a fine and deportation. A Russian citizen married to a Kazakh citizen, he is being punished for addressing his own religious community without state permission to act as a "missionary" (see below).

The continuing administrative punishments for exercising the right to freedom of religion or belief come as harsher punishments are being considered by parliament in the new Code of Administrative Offences and the new Criminal Code. Human rights defenders have sharply criticised many of their proposed provisions (see forthcoming F18News article).

The Kazakh government's restrictions on this human right were harshly criticised by the United Nations Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, at the conclusion of his visit to the country. In particular, he called for "far-reaching reforms" of the 2011 Religion Law, including an end to the ban on unregistered religious activity (see below).

### ***"Singing psalms" without state registration***

Trouble began for Yenenko on 14 September 2013, when the authorities discovered he and others were handing out Christian leaflets in Sergeyevka. The following day, on Sunday morning, police raided worship in the family home in the town. Police inspector Captain Zh. Sarsenov told Shal-akyn District Court on 30 October that he received a report of an "illegal meeting" and found about eight people, including Yenenko, "singing psalms" without state registration.

Judge Sekerbai Kaskarbayev fined Yenenko and fellow Baptist Sergei Lantsov – who was also present – 50 Monthly Financial Indicators (MFIs) each, 86,550 Tenge (2,800 Norwegian Kroner, 350 Euros or 475 US Dollars). This represents about one month's average wages for those in work. Yenenko does not have a regular job.

Both were punished under Administrative Code Article 374-1, Part 2. This punishes

"Participation in the activity of an unregistered, halted, or banned religious community or social organisation".

Yenenko and Lantsov insisted they were innocent of any wrongdoing, but on 28 November 2013, Judge Abai Ryskaliyev of North Kazakhstan Regional Court rejected their appeal, according to the decision seen by Forum 18. Like all Council of Churches Baptists, Yenenko and Lantsov refused to pay what they regard as "unjust" fines.

### ***Second attempted punishment fails***

On 26 November 2013, Shal-akyn District Court rejected an attempt to have Yenenko also punished for distributing religious literature. On 8 November, Bolat Omarov of North Kazakhstan Region Religious Affairs Department had drawn up a record of an offence, seen by Forum 18, under Administrative Code Article 375, Part 1.

Article 375, Part 1 punishes "Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship".

Judge Abai Bulatov rejected the case as witnesses denied that they had recognised Yenenko among those offering the literature. The Judge concluded that he had committed no offence, according to the decision seen by Forum 18.

### ***Six-day prison term***

On 17 April 2014, Court bailiff Marat Baitelenov summoned Yenenko and handed him the record of an administrative violation under Administrative Code Article 524 - seen by Forum 18 - for refusing to pay the October 2013 fine. Article 524 punishes "Failure to carry out court decisions". However, Yenenko refused to sign the record.

Baitelenov immediately took him to Shal-akyn District Court, where Judge Bulatov handed down the six-day punishment. The court decision - seen by Forum 18 - notes that Yenenko insisted that he would not pay what he regards as an unjust fine. It also noted that District Prosecutor's Office official Saule Kozhakhmetova had demanded a five-day prison term. The decision recorded that the term was to run until 12.30 (lunchtime) on 23 April.

Judge Bulatov defended his decision to imprison Yenenko. "He is not being punished for his faith," he insisted to Forum 18 from the court on 22 April. "He didn't fulfil the court decision from last October - court decisions must be fulfilled. He hasn't paid one kopek [penny]." Forum 18 pointed out that the original fine had been to punish him for exercising the right to freedom of religion or belief, but Judge Bulatov dismissed this. "We all pray to one God."

Kozhakhmetova similarly defended the imprisonment. "He wasn't fined for praying to God," she claimed to Forum 18 from the Prosecutor's Office on 22 April. "No one is fined for that. He committed an offence and made no attempt to pay the fine."

Yenenko's family found out that he had been imprisoned only when the police called them several hours after the court hearing, relatives told Forum 18 on 22 April. Police told them they should bring clothes and food for him. Relatives said they were able to hand on a Bible for him, and deliver food each day. He developed strong toothache on 18 April, but only on 22 April did the police take him to the dentist to have a tooth extracted.

Despite repeated calls on 22 April, Forum 18 was unable to reach court bailiff Baitelenov. His colleagues said he was out of the office.

### ***Deportation order***

Jehovah's Witness Toporov has failed in his attempt at Almaty City Court to overturn the lower court decision to fine and deport him for addressing a Jehovah's Witness meeting. On 15 April, Judge Nurlan Kurmangaliyev rejected his appeal, according to the decision seen by Forum 18.

"I'll have 30 days to leave Kazakhstan when the decision enters into legal force," Toporov told Forum 18 from Almaty on 22 April. He said he had received the written decision on 21 April and today (22 April) lodged a further appeal to Kazakhstan's General Prosecutor's Office. In his appeal he asked the General Prosecutor's Office to halt the deportation process while the appeal is heard. He has not paid the fine.

Toporov, a Russian citizen, has lived in Kazakhstan since 2003 and married a Kazakh citizen in 2007. "If I fail to have the decision overturned I'll have to leave for Russia," he lamented to Forum 18. "Of course I want to be with my wife, so she'll have to leave too."

### ***Addressing own community is "missionary activity"?***

Toporov was prosecuted for addressing a meeting of Almaty's registered Jehovah's Witness community on 23 November 2013, according to the 3 March 2014 decision of Almaty's Inter-district Specialised Administrative Court seen by Forum 18. He was punished under Administrative Code Article 375, Part 3.

Article 375, Part 3 punishes "The carrying out of missionary activity by citizens of the Republic of Kazakhstan, foreigners and persons without citizenship without registration (re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment of a religious studies expert analysis".

As a foreigner, he needed registration as a "missionary", Rasul Dursunov of Almaty's Religious Affairs Department – who had drawn up the record of an offence – told the court.

### ***Clarification of the law?***

As part of its preparation for the case, Almaty's Religious Affairs Department had written to the government's Agency of Religious Affairs (ARA) on 19 February to ask for its clarification of the law. The ARA response – seen by Forum 18 – was signed by ARA Deputy Chair Yerlan Abdakasov.

The ARA claims that "spiritual and preaching activity by foreign citizens and people without citizenship, irrespective of their status as clergy, represents missionary activity. Spiritual and preaching activity by clergy of local and regional religious associations outside relevant locations similarly represents missionary activity."

This interpretation of the law is highly controversial. Toporov insisted to the court that Jehovah's Witnesses had not granted him any status as a missionary and that he was simply giving his personal interpretation of his faith to a Jehovah's Witness meeting. He insisted this was his right under Constitutional protections of free speech and freedom of belief.

Roman Podoprigora, an Almaty-based law professor who is also on the advisory council of Kazakhstan's Supreme Court, agrees. "A member of the clergy or other individual who is conducting spiritual or preaching service in front of fellow-believers during a religious service is definitively not a missionary," he told the Kazakhstan International Bureau for Human Rights and the Rule of Law for a 21 April article on the case.

Podoprigora insists that leading or contributing to a service differs from missionary activity. "The very fact that people of another faith (as well as people indifferent to religion or atheists) might be present does not turn it into missionary activity."

Toporov asks whether he or anyone in his position is supposed to check whether all those present at a religious community's meeting are already members of that community before they start the service.

The Toporov decision appears to contradict an earlier decision in a similar case. In March 2010, the Supreme Court overturned the punishments handed down to two visiting Jehovah's Witnesses, American Theodore Jaracz and Canadian John Kikot. Both were detained by police and counter-terrorist police in Almaty in 2008 after giving a 30 minute "pastoral discourse" at a Jehovah's Witness meeting. They were both found guilty by an Almaty court under Article 375 Part 3, fined and ordered deported (see F18News 8 September 2010 [http://www.forum18.org/archive.php?article\\_id=1486](http://www.forum18.org/archive.php?article_id=1486)).

### ***Hidden surveillance?***

Toporov told the court that the Religious Affairs Department had brought the case after it had viewed secretly-filmed footage of the meeting. "The authorities must have listened in to the meeting and sent people," he told Forum 18. He declined to specify who might have sent such individuals.

"As in tsarist Russia, when a police officer had to be present at every political gathering, and as was the earlier official practice in Kazakhstan, now under a secret command the secret police are always present, visibly or invisibly," Andrei Grishin of the Kazakhstan International Bureau for Human Rights and the Rule of Law complained. "They are present at practically all religious gatherings of representatives of 'non-traditional' confessions."

The police and National Security Committee (KNB) secret police have for some years been monitoring and attempting to plant spies inside religious communities (see eg. F18News 30 January 2008 [http://www.forum18.org/Archive.php?article\\_id=1078](http://www.forum18.org/Archive.php?article_id=1078)).

Forum 18 was unable to reach Dursunov on 22 April. A colleague at Almaty's Religious Affairs Department - who would not give his name - said he was out of the office. However, the colleague insisted "no spies" are sent to religious communities' meetings. He also claimed that Dursunov does not distinguish between local citizens and foreigners in religious communities in his work.

He was unable to explain why Toporov, who has been legally resident in Kazakhstan for more than a decade and whose wife is Kazakh, should be fined and ordered deported for addressing a meeting of his own religious community. He refused to say if Toporov represents a danger to Kazakhstan and merits deportation for that reason. He refused to say if anyone had suffered from his address to his own religious community. "You're misinformed about the case," he insisted to Forum 18.

### ***Lawyer barred***

At the lower court hearing on 3 March, Judge Akmaral Isabayeva had barred a Canadian

lawyer Toporov had wished to defend him from doing so. The request to bar the lawyer had come from Bostandyk Prosecutor's Office official Aidynbek Abdukhanov.

Forum 18 was unable to reach Abdukhanov on 22 April – his telephone went unanswered.

### ***Fine follows raid***

Among other recent fines, Council of Churches Baptist Yevgeny Lyakhov was fined 100 MFIs, 185,200 Tenge, on 17 April. Judge Alma Mukhamedyarova of Musrepov District Court in North Kazakhstan Region found him guilty under Administrative Code Article 374-1, Part 1.

Article 374-1, Part 1 punishes "Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation".

As often happens, the trial was delayed because the court sent back case materials four times because police had failed to prepare documents correctly (see F18News 13 March 2014 [http://www.forum18.org/archive.php?article\\_id=1937](http://www.forum18.org/archive.php?article_id=1937)).

The fine followed a police raid on 19 January on the Council of Churches congregation in the village of Ruzayevka during Sunday worship, which Lyakhov was leading. Four officers and an official of the local Religious Affairs Department, Abu-Bakir Karmenov, arrived and Lyakhov had to ask them not to disturb the service. "They came into the hall and began to film all those present," local Baptists complained to Forum 18. After the service, police took Lyakhov to the police station and drew up a record of an offence.

Lyakhov "objects to the fine", and intends to appeal against it to the Regional Court, Baptists told Forum 18.

A separate prosecution under Administrative Code Article 375, Part 1 was sent back by the court on 30 January as North Kazakhstan Religious Affairs Department failed to prepare case documents correctly.

### ***UN criticism***

UN Special Rapporteur Bielefeldt criticised such raids and punishments in his 4 April end of visit statement issued in the capital Astana (see <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14468&LangID=E>).

"A main problem concerning the administration of religious registration is that non-registered religious groups can hardly exercise any collective religious functions in Kazakhstan," he observed. "Any of their activities, even the common performance of prayers and rituals in private homes, are deemed illegal and can incur serious administrative sanctions."

Bielefeldt recounted how, during his 11-day visit, he had heard "credible stories about police raids in the premises of some non-registered groups, leading to confiscation of literature, computers and other property".

Bielefeldt also criticised the widespread punishments for "missionary activity". "At times, the term 'missionary activities' is reportedly used in such a broad way as to almost cover all forms of bearing witness and communicating about issues of faith," he complained.

"According to international standards, freedom of religion or belief unequivocally includes the right to bear witness to one's conviction, to communicate within and across

denominational boundaries and to try to persuade others non-coercively. This also covers missionary activities."

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## **UN rights expert urges Kazakhstan to end mandatory registration of religious communities**

OHCHR (04.04.2014) – United Nations Special Rapporteur Heiner Bielefeldt today called on the Government of Kazakhstan to end the mandatory registration of religious communities which has led to situations of legal insecurity affecting especially small groups.

"Religious pluralism is a hallmark of the Kazakhstan's society traceable far back in history and perhaps even pre-history," Mr. Bielefeldt said\* at the end of the first visit to the country by an independent expert mandated by the UN Human Rights Council to monitor freedom of religion or belief worldwide.

"Some of the people I talked to during my visit invoked specifically nomadic traditions of hospitality and open-mindedness when explaining the accommodation of different religious communities in Kazakhstan today," he said.

However, the 2011 Law on Religious Associations requires all religious communities in Kazakhstan to obtain registration status in order to exercise collective religious functions.

"Those communities, which fail to meet the threshold set by the law or prefer not to be registered, live in legal insecurity which adversely affects their freedom of religion or belief," he warned. "Freedom of religion or belief inherently belongs to all human beings and does not require State's approval."

Mr. Bielefeldt acknowledged the active role played by the Kazakhstani authorities in promoting peaceful interreligious coexistence in the country. He noted that the secular constitution receives general approval by the country's population, and public demands to introduce a religious State remain very rare.

"In this context, I sometimes came across restrictive interpretation according to which secularism becomes a tool for confining manifestations of freedom of religion or belief to pre-defined territorial spaces," Mr. Bielefeldt stated.

"An open discussion of the meaning and implications of secularism might also help to overcome restrictive attitudes within the administration and within law-enforcement agencies," he recommended.

During his twelve-day visit, the human rights expert met with a wide range of relevant Government officials and agencies, as well as representatives of religious or belief communities and civil society organizations in Astana, Almaty and Karaganda.

Following his visit, the Special Rapporteur will present a report containing his conclusions and recommendations to the UN Human Rights Council in 2015.

(\* ) Read the Special Rapporteur's full end-of-mission statement:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14468&LangID=E>

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## **Kazakhstan: Religious freedom survey, March 2014**

By Mushfig Bayram and John Kinahan, Forum 18 News Service

Forum 18 News Service (20.03.2014) - Before the 2014 UN Universal Periodic Review (UPR) of Kazakhstan, and the 26 March – 6 April visit of UN Special Rapporteur on Freedom of Religion or Belief Professor Heiner Bielefeldt, Forum 18 News Service's religious freedom survey notes continuing violations of freedom of religion or belief and related human rights. Violations include: making the exercise of human rights conditional upon state permission; systematically increasing the range of possible "offences" people can be punished for if they exercise freedom of religion or belief and related human rights; officials routinely violating the rule of law with impunity; closing down independent mosques, and continuing to seek to close other smaller religious communities; censorship of religious literature and objects, including severe limitations on the numbers of premises where such literature and objects can be distributed; the misuse of psychiatry against people the authorities dislike; and exit bans and jailings imposed on those refusing to pay fines for exercising freedom of religion or belief without state permission.

Before the October-November 2014 UN Human Rights Council Universal Periodic Review (UPR) of Kazakhstan, and the 26 March – 6 April visit of UN Special Rapporteur on Freedom of Religion or Belief Professor Heiner Bielefeldt, Forum 18 News Service's religious freedom survey notes continuing violations of freedom of religion or belief. Also violated are intrinsically linked rights such as the freedoms of expression, assembly, and speech. This survey concentrates on the most important freedom of religion and belief violations Forum 18 has documented from the latest Religion Law coming into force in October 2011 until March 2014.

Serious violations Forum 18 has documented include: making the exercise of human rights conditional upon state permission; systematically increasing the range of possible "offences" people can be punished for if they exercise freedom of religion or belief and related human rights; officials routinely violating the rule of law with impunity; closing down independent mosques, and continuing to seek to close other smaller religious communities; censorship of religious literature and objects, including severe limitations on the numbers of premises where such literature and objects can be distributed; the misuse of psychiatry against people the authorities dislike; exit bans and jailings imposed on those refusing to pay fines for exercising freedom of religion or belief without state permission; and co-operation with other states which seriously violate human rights.

Kazakhstan's basic approach is to make the exercise of human rights conditional upon state permission, as a means of state control of society, flagrantly breaking its binding international human rights obligations. In the area of freedom of religion and belief this is seen in, among other things, imposing compulsory registration of religious or belief groups and the banning of all unregistered religious activity.

Fear within Kazakhstan of expressing views the government dislikes has increased in recent years. Forum 18 was told in early 2014 that fear of the consequences of criticising the government has caused some religious communities to decide not to participate in the UN Human Rights Council Universal Periodic Review, and to decide not to meet the UN Special Rapporteur on Freedom of Religion or Belief on his visit.

### **Context**

Kazakhstan is geographically the largest country in Central Asia, and has the second

largest population with nearly 18 million people. Roughly half the population are ethnic Kazakhs (regarded as being of Muslim background) and the rest are made up of ethnic Uzbeks (likewise of Muslim background), Slavs (mainly Russians and Ukrainians, many of Russian Orthodox or other Christian background) and smaller minorities of Koreans, Germans and Poles. Kazakhstan's economy has been the strongest in the region, buoyed by its oil and gas reserves, attracting migrants from its poorer neighbours.

Nursultan Nazarbaev has ruled Kazakhstan since 1989 when it was part of the Soviet Union. Elections have been repeatedly criticised as neither free nor fair by Organisation for Security and Co-operation in Europe (OSCE) election observers. In the last 2011 presidential election, Nazarbaev claimed to have gained over 95 per cent of votes. His Nur Otan political party has long provided the overwhelming majority of deputies in the Majilis (lower chamber) of Parliament.

Kazakhstan is a member of the Council of Europe's Commission for Democracy through Law, or Venice Commission. But this has not led to implementation of the country's human rights obligations. Indeed, it applied for full membership of the Venice Commission the same day (11 October 2011) President Nazarbaev signed two laws violating international human rights commitments. These were a new Religion Law and an Amending Law amending nine other laws and legal provisions (see below).

As human rights defender Nazgul Yergalievna of the Legal Policy Research Centre observed to Forum 18 at that time, "strict regulation and limitation of fundamental rights, such as freedom of religion, by governments has already proved to be a dangerous path, leading to social tension and resentment".

### **Tolerance?**

The government attempts to publicise its alleged "religious tolerance", for example in "Congresses of leaders of world and traditional religions". Revealingly, an employee of the state Agency of Religious Affairs (ARA) (which plays a key role in running Congresses) described the May 2012 meeting to Forum 18 as being "for foreigners".

One participant in a Congress planning process described these – in a confidential conversation – as prepared "in Soviet style top-down fashion". A secular guest from a well-known international organisation, invited by the Kazakh government, described – in a confidential conversation – their surprise that President Nazarbaev attended most of the Congress, and what they described as their "horrified amazement" when they witnessed religious leaders present – including prominent foreign religious leaders – ignoring fundamental human rights violations within Kazakhstan, as well as the indissoluble links between tolerance and human rights.

### **The rule of law?**

Article 4 of Kazakhstan's Constitution states: "International treaties ratified by the Republic shall have priority over its laws and be directly implemented except in cases when the application of an international treaty shall require the promulgation of a law." Article 2, Part 2 of the Religion Law states that in cases where an international agreement signed by Kazakhstan exists, this overrides other provisions of the Religion Law. If this and the Constitution's Article 4 were implemented, most of the Religion Law and other laws would be abolished, including demands for compulsory prior state permission to exercise human rights.

Those subjected to violations of their internationally recognised human rights frequently complain that trials are conducted unfairly, law seemingly being used to provide officials with excuses to engage in oppression. Officials do not appear to see law as imposing restraints on their actions. Indeed, the interlocking nature of violations of freedom of



religion or belief and inseparably linked human rights appear designed to impose total state control on all of society.

Even if officials admit they acted unlawfully – as Adil Togayev, Director of Almaty Regional Land Inspectorate did in May 2012 in relation to a fine imposed on the wife of the pastor of a forcibly closed Methodist Church – there is no guarantee of redress. Officials have refused to admit that similar fines and bans – for example bans on Ahmadi Muslims meeting – are also illegal. No official Forum 18 has spoken to has been prepared to discuss what disciplinary or other action will be taken against officials who break domestic laws or international human rights law.

Officials routinely deny human rights violations. President Nazarbaev claimed on 17 April 2013 to visiting Finnish President Sauli Niinistö that "Kazakhstan is an example to the world of equal rights and freedoms for all citizens" and that "religious freedom is fully secured".

### ***Steadily increasing restrictions and violations***

The authorities have long been increasing their "legal" instruments of repression. On 5 September 2011 a new Religion Law, and an Amending Law changing nine other laws and legal provisions including the Administrative Code were introduced into the parliament. Both were adopted very quickly, despite strong criticism from national and international human rights defenders, being signed into law by President Nazarbaev on 11 October 2011.

These laws were foreshadowed by raids on and punishments for meeting for worship without state permission by the police and National Security Committee (KNB) secret police. Prominent in these measures were state-funded so-called anti-sect centres, and attacks by officials on so-called "non-traditional" beliefs, which members of many religious communities state encouraged public hostility through statements in the state-controlled national and local media. Communities targeted included Hare Krishna devotees, Jehovah's Witnesses, and Protestants, described as "destructive religious movements". Also Ahmadi Muslims in the southern city of Shymkent had their community closed by the authorities. One Ahmadi suggested to Forum 18 that the "anti-sect" campaign was intended to prepare the ground for the two restrictive laws.

Officials of the ARA, the Muslim Board, and regional authorities also in August 2011 – during Ramadan – re-started earlier demands that independent legally registered mosques join the government-supported Muslim Board, although the National Security Law banned state interference in religious communities. One imam faced telephone demands "almost every day several times" that his mosque give up its independence.

Another Imam was threatened that independent mosques will not be re-registered after – not if – a new Religion Law was adopted. Karaganda regional ARA Director Serik Tlekbayev claimed to Forum 18 that "they are not real Imams".

Many in Kazakhstan were fearful of expressing their opposition to the laws in public, Forum 18 notes. Fear of expressing views critical of the state has increased since 2011. We are "very much followed by the KNB secret police" a member of one religious community – who wished to remain anonymous for fear of state reprisals – commented on this in early 2014.

### ***"Terrorism"?***

The authorities often associate the victims of freedom of religion or belief violations with words with negative overtones. Officials defended the 2011 laws restricting freedom of religion or belief as being needed as counter-terrorism measures.

In another example, January 2013 raids on Baptists refusing to seek state permission to exercise freedom of religion or belief were led or instigated by police Departments for the Struggle against Extremism, Separatism and Terrorism. North Kazakhstan Regional Police described the raids as "operational/prophylactic activity to counter manifestations of religious extremism and terrorism".

Media attacks on allegedly "non-traditional" beliefs and the use of state-funded "anti-sect" centres in attacks on people exercising freedom of religion or belief continue. This undermines social acceptance of Kazakhstan's diversity of ethnic groups and beliefs.

### ***More repressive laws to come?***

The "legal" mechanisms used to justify official violations of freedom of religion or belief may be added to. A new Criminal Implementation Code (which includes a draft provision banning prisoners from having any religious literature of their own), a new Criminal Code, a new Code of Administrative Offences and a new Criminal Procedure Code are all in preparation. They are currently planned to be adopted in 2014 and take effect from January 2015.

### ***Current main "legal" justifications for repression***

The current March 2014 main "legal" justifications of state violations of freedom of religion or belief are the Religion Law and the Administrative Code. Their main relevant provisions are outlined below.

#### ***The Religion Law***

##### ***Compulsory re-registration***

All religious communities were required under Article 24 to apply for re-registration – state permission to exercise freedom of religion or belief – by 24 October 2012. Failure to be re-registered led to many communities being forcibly closed (see below).

##### ***Complex registration system***

Article 12 identifies four kinds of registration: national, regional, local and unregistered. All activity by those categorised as unregistered is banned. Local and regional organisations are only allowed to conduct activity in the geographic area they are registered in.

The three categories of registered religious organisations are allowed to teach their faith to their own members. However, only regional and national registered religious organisations are allowed, under Article 13, Part 3, to train clergy in institutions established – with state permission – by religious organisations. Under Article 13, Part 3, they are allowed to establish "professional educational programmes to prepare priests". It remains unclear whether religious education not involving training of "priests" will be allowed.

Geographic area and training of clergy appear to be the main differences between the three permitted types of religious organisations. Regional and national organisations must register with the Justice Ministry in the capital Astana. The system may have been designed to ensure that only the Muslim Board and the Russian Orthodox Church are able to gain top-level, national registration.

- Unregistered activity banned

Article 3, Part 11 bans all unregistered exercise of freedom of religion or belief. Communities which are unable to register, or which – like independent mosques and congregations of the Baptist Council of Churches – do not wish to seek state registration face punishment for any exercise of freedom of religion or belief.

- Local organisations

Under Article 12, Part 2, local religious organisations need at least 50 adult citizen members within one region of the country or main town, and must register with the local Justice Department.

- Regional organisations

Under Article 12, Part 3, regional religious organisations need 500 adult citizens belonging to at least two different registered local religious organisations (each with at least 250 adult citizens) located in two different regions or main towns. The regional organisation is only allowed to function in the areas where its local member organisations are based.

- National organisations

Under Article 12, Part 4, national religious organisations need at least 5,000 adult citizens from all regions of the country, the capital and all major towns (with at least 300 members in each of those territories). It also needs branches all over the country.

Article 15, Parts 5 and 6 require a national religious organisation to gain local registration of all its branches and provide the Justice Ministry with proof of this within one year, if it wishes to retain its registered status.

Article 15, Part 4 requires applications to register a regional religious organisation to present a full list of the founders of local religious organisations whose members are founding the regional organisation.

***What is needed for registration?***

Registering a religious organisation requires a statute adopted at a meeting attended in person by all the adult citizen founders, according to Article 13, Part 1. Founders can attend only "at their own request", but it is unclear who determines this. A religious organisation must have "a united faith; the carrying out of religious rites, ceremonies and preaching; religious education of its followers; and spiritual orientation of its activity".

Many of the terms used in both the laws – such as "a united faith" – are unclear and undefined. This leaves open the possibility of arbitrary official definitions and actions against groups which officials dislike.

Article 14 requires religious organisations to include the religious faith in the name and bans the name from using terms already used by another registered community.

Under Article 15, all the founders of a religious community must present their full details to the registering body, which is empowered to check them. This seems designed to intimidate potential founders of religious communities the government dislikes.

Article 16, Part 3 requires each organisation's statute to explain "the fundamental religious ideas, forms of activity of the religious association, particularities of its attitude to marriage and the family, education and health of the participants (members) of the given religious association and other people, and attitude to the realisation of the

constitutional rights and obligations of its participants (members) and officials". It remains unclear how extensive this information has to be, why checking beliefs (not permitted in this context by international law) is required, and how state officials determine whether any of these explanations are adequate or not.

Article 15, Part 3, requires that copies of publications "revealing the emergence of and bases of the faith and containing information on the religious activity linked to it" are presented with registration applications.

Article 16 requires each organisation's statute to specify the geographic territory it operates in.

### ***Basis for state refusal to register a group***

Article 17, Part 1 states: "State registration of religious associations and state registration of their structural subdivisions (branches and representative offices) shall be refused in accordance with the laws of the Republic of Kazakhstan when the information contained in the charter and other documents is false, and/or if the created body is not recognised as a religious association on the basis of [state] religious examination."

Part 2 states that "Appeals against denials of registration may be made in court."

### ***Suspension, closure, and restructuring of groups***

Article 18, Part 1 states that: "Reorganisation of religious communities may be carried out in accordance with the laws of the Republic of Kazakhstan by way of merger, union, division, transformation, and separation by the decision of the body authorised by the constituent documents of a religious association, or by court order. A religious association can only be transferred to another religious organisation or a private institution. Organisations formed as a result of the reorganisation of religious associations may be registered as religious organisations if they comply with the requirements of this Law."

Part 2 states that: "Suspension of operations and disbandment of a religious association shall be carried out in accordance with the laws of the Republic of Kazakhstan."

Implementation of the registration process – described by many religious communities as "complex", "burdensome", "arbitrary", "unnecessary" and "expensive" - is dealt with in a separate section below.

### ***Censorship***

The Religion Law claims everyone has the right to acquire and use "religious literature, other informational materials of religious content, and objects of religious significance at their own discretion". However, distribution is permitted, according to Article 9, Part 2, only in registered places of worship, approved religious education institutions and "special stationary premises determined by local executive authorities" (Akimats).

Article 5, Part 7 requires Akimats to name local "special stationary premises" (bookshops) they have inspected and approved to sell religious literature and other materials such as icons. Other bookshops and similar places are banned from selling religious literature and other materials.

Article 9, Part 3 requires that all imports of "informational materials of religious content" – apart from unspecified small quantities for personal use – be done only by registered religious organisations with prior approval from the ARA, which has to conduct an "expert analysis" of each title.

Article 9, Part 4 requires each work to have the "full name" of the registered religious organisation which produces or distributes it, apparently preventing individuals or other organisations producing such material.

ARA "expert analyses" are required for all imported "religious literature" or "other informational materials of religious content", and for any religious literature (imported or not) acquired by any library. The exact terms of this requirement are unclear. "Objects of religious significance" can include Koran stands, crosses, crucifixes, icons and religious clothing.

All "spiritual (religious) educational programmes" are also, under Article 6, Part 2, subject to an "expert analysis".

"Religious studies experts", as well as "when necessary" state officials, conduct such "expert analyses" on behalf of the ARA.

Censorship, including the strict controls on who can sell religious books and materials where, is also dealt with in a separate section below.

### ***Restrictions on where meetings happen***

Article 7, Part 2 states that: "Worship services, religious rites, ceremonies, and/or meetings may be freely carried out in religious buildings and their assigned territory, in places of worship, offices and premises of religious associations, in cemeteries and in crematoriums, and inside homes and dining halls if needed on condition that they respect the rights and interests of nearby residents. In other cases religious activities are carried out in accordance with the laws of the Republic of Kazakhstan."

Officials impose arbitrary interpretations of this and other legal provisions. In June 2013 Zarina Burova was fined an amount equivalent to two months' average salary for sending text messages to her friends inviting them to a Jehovah's Witness meeting. The case followed surveillance by the police Department for the Struggle against Extremism, Separatism and Terrorism and the KNB secret police. Nurali Kayrenbayev of Atyrau Religious Affairs Department, claimed to Forum 18 in August 2013 that Burova was fined because "all religious activity outside the building of a registered community is banned" citing Article 7, Part 2. When Forum 18 noted that sending text messages is not covered by this Article, Kayrenbayev repeated his claim.

### ***Restrictions on new places of worship***

Any new place of worship requires, under Article 5, Part 8, the approval of the local administration. This includes whether and where a religious community can build, and whether a religious community can gain official change of usage for a building it wants to turn into a place of worship.

### ***Restrictions on children's freedom of religion or belief***

Article 3, Part 16 requires leaders of religious organisations "to take steps to prevent the attraction and/or participation by underage children in the activity of a religious association if one of the child's parents or other of its legal guardians objects".

It remains unclear how religious leaders will know if parents disagree over whether their child can accompany one of them to a religious meeting. It also remains unclear whether leaders may be liable if a community under their jurisdiction does not take measures to ensure that every child who attends has the approval of both parents.

Article 375 of the Administrative Code was amended in 2011 to introduce punishment for failing to prevent someone bringing a child to a religious meeting against the wishes of one of its parents. This facilitates state pressure against children or young people, parents - even separated or divorced parents - and guardians involved in a religious community state officials dislike. It allows pressure against anyone involved in such communities.

Similarly changed in 2011 was Article 19 of the Law on the Rights of the Child. This now includes: "The carrying out of services, religious rituals, ceremonies and/or meetings, as well as actions directed at spreading a faith, in children's holiday, sport, creative or other leisure organisations, camps or sanatoria is not allowed."

It remains unclear whether this bans religious organisations from running children's summer camps.

### ***Restrictions on sharing beliefs***

Article 1, Part 5 of the Religion Law defines "spreading a faith" as "missionary activity" and indicates that it is done "in the name of a religious organisation registered in the Republic of Kazakhstan", whether by a local citizen or a foreigner. Article 8, Part 1 states that all individuals engaged in this must be registered. This state permission must be renewed annually.

Only registered religious organisations can appoint "missionaries", who must act in the name of the organisation. All religious literature they use to share their beliefs must be presented when applying for missionary registration.

What constitutes "spreading a faith" or "missionary activity" is undefined. This could – to take one example - potentially make any conversation about religious matters by unregistered people an offence.

### ***Restrictions on foreigners***

All founders of religious communities must be Kazakh citizens. This in particular affects the many long-term residents of Kazakhstan after the break up of the Soviet Union who became foreign citizens.

In late 2013 fines and deportations were imposed on two legally resident foreign citizens simply for exercising the right to freedom of religion or belief. Polish cardiologist Robert Panczykowski had preached at a Jehovah's Witness meeting, while Kyrgyz citizen Shamurat Toktoraliyev discussed his faith in a private flat. Russian Imam Shamil Alyautdinov was blocked from presenting his books in Kazakhstan because the only legally registered Islamic organisation – the Muslim Board – refuses to invite him. Without personal registration as a "missionary", any public appearance would be illegal.

Leaders of all religious organisations named by foreign religious organisations (such as Russian Orthodox or Catholic bishops) need the approval of the ARA, regardless of whether the appointed leader is a Kazakh citizen or not. Article 19, Part 1 bans such foreign-named leaders from acting without ARA approval.

For foreign citizens to work as "missionaries" in Kazakhstan, they need (like local citizens) to have an invitation from a registered religious community in the country and need personal registration as a missionary. Under Article 8, Part 4, they also need a certificate proving that the religious organisation they represent is registered in their country of origin. It remains unclear what happens if a "missionary" is from a country where religious organisations are not subject to state registration.

Those seeking to conduct "missionary work" – whether local citizens or foreigners - are denied permission under Article 8, Part 5 if such work "constitutes a threat to the constitutional order, social order, the rights and freedoms of the individual, or the health and morals of the population".

### ***Prisons and other state institutions***

Religious pastoral care is allowed for people in institutions – including hospitals, prisons, or old people's homes – provided such care is not thought to obstruct the running of the institutions, or violate the rights of other residents. However, Article 7, Part 3 bans prayer rooms in state institutions. Even before the Religion Law came into force, the state closed mosques, churches and prayer rooms in prisons and state social care institutions, such as those for people with physical disabilities and mental health problems.

Also, under Article 7, Part 4 only priests of state-registered religious communities can be invited to provide such care and conduct religious rituals. It also states that "the carrying out of religious rites, ceremonies and/or meetings must not obstruct the activity of the given organisations or violate the rights and legal interests of other individuals".

Some prisoners have stated that they have been placed in solitary confinement, on the instructions of the KNB secret police, for praying Muslim prayers.

- Licence to learn required

The Licensing Law was amended in 2011 to add a requirement in Article 27, Part 15 that religious organisations which send people abroad for study in religious educational institutions also require a state licence.

This restricts Article 11 of the Religion Law's apparent blanket permission for state-registered religious organisations to send students abroad for study. Organisations which do not have state registration cannot either exist or have permission to send students abroad.

### ***Compulsory re-registration process***

Kazakhstan used the Religion Law's re-registration process to close many religious communities, including mosques, after the deadline of 24 October 2012. Communities complained of arbitrary and flawed decisions, as well as pressure exerted by local authorities on people to withdraw their signatures from founding documents.

Members of many religious communities in Kazakhstan complained to Forum 18 of what they variously describe as the "complex", "burdensome", "arbitrary", "unnecessary" and "expensive" compulsory re-registration process. But few religious community leaders – even those whose communities were unable to apply for re-registration because of the new requirements – were prepared to discuss the re-registration process, for fear of state reprisals against their communities.

This pressure on the existence of communities has affected people's willingness to exercise their freedom of religion or belief in association with others. "Now our believers are afraid each time they gather for worship", a Kazakh religious leader told Forum 18.

Many communities complained that the ARA and local Justice Departments kept asking them to change their charters on arbitrary grounds. "They wanted us to write in more detail in our statutes what our doctrine is," Jehovah's Witnesses told Forum 18. "What we

believe about army service and blood transfusions. We talked this through with them in a normal dialogue."

Once applications were lodged, Justice Departments and Regional ARA branches checked the full details of each founder of many organisations, religious leaders told Forum 18. In one case the street number of one founder was given incorrectly, requiring a correction and the whole application to be resubmitted.

In some cases, individual founders were questioned about their religious affiliation and why they had signed a registration application. "Many of our founders were summoned by Regional ARA offices," Jehovah's Witnesses told Forum 18. "Although no pressure was put on them to remove their names, they were asked: why do you belong to this particular faith?"

This has happened throughout Kazakhstan. For example, Almaty Regional officials telephoned or visited 14 of the 61 founders who signed the re-registration application of Grace Protestant Church in Karaturyk in the Region's Yenbekshikazakh District. Officials warned the signatories about the dangers of the "sectarian" Grace Church, and demanded that they revoke their signatures on the application. "The authorities especially chose to target those founders who are of Kazakh and Uygur ethnicity", the Church's Pastor Zhursyn Koshkinov and some of the signatories told Forum 18.

In another case, a religious leader who asked not to be identified told Forum 18 that by relentless examination of people on the list of founders, the authorities had been able to remove enough to bring the number down to 49, making the community ineligible to apply. The community had to resubmit the application, and they made sure they had more than 70 founders on the list the second time. The Justice Department has still not responded to the application.

Some smaller communities have been forced to "voluntarily" close, such as a Methodist Church which was threatened with a fine state officials admitted was unlawful (see above). Larissa Kim, the wife of the Church's Pastor, was fined for using her private home – the Church's registered legal address - for meetings for religious worship. The Church was then forced to pay for an announcement in newspapers that the Church had decided to liquidate itself. "We do not want more punishment from the authorities," Pastor Valery Kim told Forum 18 in May 2012. The authorities then forced the Church to pay for another announcement of its closure, this time in an official journal for legal announcements.

Some religious communities have from the Religion Law up to 2014 noted steep falls in the number of registered communities. In one case almost 66 per cent of pre-2011 registered communities were forced to close or were merged with others. A variety of threats were used by officials to achieve this. An independent mosque was threatened with demolition with a bulldozer if it did not join the state-backed Muslim Board. Imam Kinayat Ismailov of the Tautan Molla Mosque in the small town of Prishakhtinsk in the central Karaganda [Qaraghandy] Region told Forum 18 in May 2012 that ARA regional Head Tlekbayev "visited our Mosque to inspect our activity and the property along with officials from the District Administration. He told me that he will close down our Mosque, and even demolish the Mosque building with a bulldozer."

Kazakhstan has used bulldozers before to violate freedom of religion or belief, when the country with no warning used bulldozers to destroy Hare Krishna devotees' homes in November 2006.

### ***Catholic exemption***

Apart from the Muslim Board (see below), the only other religious community to be



exempted from the re-registration procedures is the Catholic Church. This was granted after an Agreement on Mutual Relations between the Holy See and Kazakhstan – signed on 24 September 1998 – was hastily ratified in September 2012. The Agreement gives the Church the right to establish entities, maintain places of worship, send clergy and other personnel to the country, and establish church schools and charitable agencies "in conformity with the legislation of Kazakhstan".

Justifying differential treatment of the Catholic Church, the Justice Ministry pointed to Article 2, Part 2 of the Religion Law, which states that where an international agreement signed by Kazakhstan exists, this overrides other provisions of the Religion Law. The Ministry did not explain why Kazakhstan is not also implementing the International Covenant on Civil and Political Rights (ICCPR), which would if implemented abolish most of the Religion Law.

### ***Independent mosques forcibly closed***

Even before the Religion Law was adopted, officials were (as noted above) insisting in 2010 that mosques catering for non-Kazakh ethnic groups could not exist. Officials were also insisting before the Religion Law was adopted that all mosques independent of the state-backed Muslim Board must be closed. There is no "legal" basis for such demands.

The Justice Ministry – backed by the ARA – has denied all re-registration applications by non-Muslim Board Muslim communities. Under its 2012 Statute, the Muslim Board is registered as one legal entity with all mosques in the country as its branches. The Muslim Board is the only religious community given such a state-backed monopoly.

Under the Statute, all mosques must have their imams appointed by the Muslim Board, and these imams must only read out sermons at Friday prayers which have been provided to them by the Board. All mosques must also give the Board 30 per cent of their income. Independent mosques strongly objected to these state-backed restrictions.

The state also subjects Muslim communities to language restrictions which do not apply to other faiths. Mosques must use Kazakh rather than other languages such as Russian, Tatar, Chechen, or Azeri for sermons. Unlike communities of other faiths (eg. Russian Orthodox, Armenian Apostolic, or Jewish) mosques cannot have an ethnic affiliation in their name.

No independent mosques or Shia Muslim communities have been given state permission to exist. The Muslim Board's spokesperson told Forum 18 in November 2012 that all Islamic communities "must be Hanafi Sunni Muslim". "We don't have other sorts of Muslims here", he added. Asked about Shia mosques or mosques of other schools of Sunni Islam, he replied: "There aren't any."

State censorship has stopped the production and distribution of all Islamic literature that is neither Hanafi Muslim literature nor Muslim Board approved (see below).

State officials, along with Muslim Board officials, used a variety of tactics to force independent mosques to join the Board or close. For example, the Din-Muhammad Tatar-Bashkir Mosque in Petropavl in North Kazakhstan Region is mainly attended by ethnic Tatars and Bashkirs. It was built in 1852 and has been open since then, apart from when it was closed during Soviet-era repression of freedom of religion or belief.

The mosque community lodged a re-registration application before the Religion Law's October 2012 deadline, receiving no official response. Since then, the Mosque community and its imam have faced heavy state pressure. For example, on the night of 20 December 2012 the ARA telephoned the Imam and some elderly members of the community for an 09.00 meeting with the Head of North Kazakhstan Region's

administration Serik Bilyalov. He threatened them that if they did not join the Muslim Board the community would be liquidated and the mosque would be taken over by the local authorities who would use it for some public non-religious purpose. A central ARA official claimed to Forum 18 in January 2013 that "there is no pressure on the mosques".

Members of the Din-Muhammad Mosque community continued to gather for prayers in their 19th century mosque, even after a 12 September 2013 court decision rejected an appeal against compulsory liquidation ordered on 20 February 2013. The appeal court ordered officials to complete the liquidation quickly. Attendance at prayers dropped from hundreds to tens because "people are afraid of the authorities", community members told Forum 18 in September 2013.

On 4 February 2014, three officials of a court-appointed Liquidation Commission to dissolve the community arrived at the Mosque in Petropavl to prepare an inventory of all its possessions. "The mosque is to be handed over to another religious organisation", Marat Zhamaliyev, deputy head of the regional Finance Department, told Forum 18. He refused to say which religious community the mosque will be given to. Told by Forum 18 that the mosque community still exists, regularly holds the namaz (prayers) in the mosque and intends to continue to exist, Zhamaliyev responded: "We're not liquidating the mosque, we're liquidating the community." He insisted that that the juridical community had been liquidated by a court and therefore did not exist.

The Din-Muhammad Mosque is thought to be the last remaining publicly-accessible mosque independent of the state-backed Muslim Board.

All Ahmadi Muslim mosques throughout Kazakhstan were closed in April 2012. ARA's then Spokesperson Svetlana Penkova told Forum 18 in November 2012 that she "cannot guarantee that the Ahmadi Community will be re-registered. But I can guarantee that whatever decision the ARA will make will be based strictly on the Law". The Ahmadi community applied for re-registration for just one of their communities, in Almaty. On 19 November 2012 the community received a response from the regional Justice Department that "the statute did not qualify under the expert opinion". A positive ARA "expert analysis" is required for a community to be permitted to exist. Ahmadi Muslims are now legally banned.

### ***Still closing communities***

As well as targeting independent mosques, state pressure is still being used with the apparent aim of closing other religious communities down. For example, members of New Life Protestant Church in Arkalyk [Arqalyq], in the northern Kostanai [Qostanai] Region, have faced state interrogations and threats, particularly targeting state employees. On 2 December 2013 two church members were summoned to the Akimat (local district administration). One works for the prison service, the other for a state educational institution. All 52 signatories to the Church's successful 2012 re-registration application seem to have been later summoned to Daryn Zhapabayev, one of Arkalyk's Deputy Prosecutors, or Arkalyk's Deputy Akim, Yeslambek Mametekov.

"Our church members were questioned as to why they joined the church, why they attend and why they signed the re-registration application," Pastor Aleksii Fedoskin complained to Forum 18. "They were pressured to sign pre-prepared statements that they had not understood what they were signing." At at least two of the interrogations at the Prosecutor's Office, church members' superiors from their workplace were also present. The Pastor fears that if the number goes below the required 50 for applications, the authorities may begin moves to strip the congregation of state registration. Without such registration, any activity the congregation undertakes would be illegal.

### ***KNB secret police surveillance***

On 8 December 2013, a KNB secret police officer attended New Life Church's Sunday service, using a hidden camera to film those present. "I saw him using a hidden camera, so I approached him after the service and asked who he was," Pastor Fedoskin told Forum 18. "However, he would not identify himself. Church members afterwards told me he was from the KNB and his surname is Alimbayev. It's a small town and everyone knows everyone else."

All religious communities are thought to be under surveillance by the ordinary police and KNB secret police. Many communities are reluctant to discuss this - including KNB attempts to recruit informers - for fear of state reprisals.

### **Censorship**

As noted above, censorship is imposed by the state along with – for Islamic literature – the Muslim Board. Its spokesperson Ongar Omirbek told Forum 18 that "only Islamic literature from the Sunni Hanafi school can be distributed, as all other Muslim schools - including Ahmadis - are banned". Shia Muslims across Kazakhstan, who asked not to be named for fear of state reprisals, told Forum 18 that Shia literature cannot be found on sale.

The Religion Law does not clearly define what religious literature and objects are, but still imposes censorship on them in both bookshops and libraries. There is confusion among officials about what is censored, what is involved and what if anything is exempt. Galym Shoikin of the ARA insisted to Forum 18 in November 2013 that unless a book or object is banned by a court, it is legal. But legal books or objects cannot be distributed without ARA censorship. When Forum 18 noted that this is censorship, he claimed that: "This is not censorship – it is defending the interests of our country". He was unable to state a legal basis for some official actions, for example stating in relation to a claim that some undefined "holy books" are exempt from censorship that "such issues are not put in law".

One Astana shop owner, Pyotr Volkov, sought clarification from the ARA of what constitutes "religious literature", and so is subject to censorship. He made the enquiry after books were seized from his shop during a police raid in May 2013 and he was fined in September 2013. Marat Azilkhanov, a then Deputy Chair of the ARA, responded that "religious literature" is "printed and electronic publications containing religious content designated for the satisfaction of religious and other socially significant needs of the population deriving from religious postulates". Azilkhanov added: "To this category belongs production of a theological, theological/canonical, ritual/mystic and social/theological orientation." There does not appear to be a legal basis for this definition.

Azilkhanov was named on 4 November 2013 as the new ARA head.

Local authorities and "law enforcement" agencies enforce censorship – including severe limitations on the numbers of bookshops allowed to sell any kind of religious material – across Kazakhstan with raids and fines. Even some shops with permission to sell religious books such as Korans and Bibles have told Forum 18 that they do not want to do so, to avoid trouble from the authorities. Courts frequently fine commercial booksellers and individuals for distributing religious literature outside approved venues (state-registered places of worship and state-licensed shops). Forum 18 knows of 11 named commercial booksellers and traders given administrative fines in 2013 (one was fined twice) for selling religious books without a licence.

Allegedly "extremist" works are also banned, but because court hearings to rule whether materials are "extremist" take place unannounced and because no published list of banned books appears to exist, people in Kazakhstan remain unaware of what has and

has not been banned. The unannounced nature of court hearings also makes it impossible for such bans to be challenged.

Censorship also includes religious objects. Twelve icons and three Bibles were seized from a commercial bookseller in Oral (Uralsk) in West Kazakhstan Region in October 2013. The bookseller narrowly avoided administrative prosecution. It remains unclear what happened to the icons and books. "Everything is OK now – he has agreed not to sell religious materials," Salamat Zhumagulov, the state religious affairs official who seized the items, told Forum 18. ARA spokesperson Saktagan Advokasov stated that "the Kazakh state must defend our citizens from harmful materials". Asked by Forum 18 whether he has known icons to be harmful, he responded: "We have experts to check icons."

In May 2013, four books confiscated from a bookseller in East Kazakhstan Region – including two with prayers to Russian Orthodox saints Serafim of Sarov and Sergius of Radonezh – were ordered destroyed when the bookseller was fined. If it was carried out, this would have been the first known time that a court-ordered religious book destruction has been carried out in Kazakhstan.

Yerlan Kalmakov of Kostanai Regional Internal Policy Department, asked why people must ask for permission to distribute books from the authorities, replied in February 2013: "Imagine what could happen if we allow just anybody to distribute religious materials". He added that "unregistered religious organisations, which are illegal in Kazakhstan will use this and attract people to their ranks. They will thus continue their illegal existence".

### ***Smear attempts?***

There have also been apparent attempts to smear or blackmail members of some religious communities. In March 2013, Pastor Yevgeni Medvedev and others from New Life Pentecostal Church in Stepnogorsk – all men – arranged a visit to the local sauna. Before their arrival, a man who claimed to be from an unnamed "law-enforcement agency" visited the sauna to persuade the sauna staff to allow in two young women when the church members were alone in the sauna. Sauna staff stated that the "law-enforcement agency" man said that the "most important thing was to let the girls in and that they should be able to take off all their clothes. And after that, two police officers will arrive."

Two young women were on the street outside when the church members arrived, Pastor Medvedev told Forum 18. But the sauna staff did not let them in. The women telephoned someone and passed the phone through the window to the sauna staff, but the staff continued to prevent them from entering.

Both the ordinary police and the KNB secret police denied to Forum 18 that they had any involvement.

Petropavl's Din-Muhammad Tatar-Bashkir Mosque has also experienced a possible provocation. "Some long-bearded young men with a radical appearance also recently came to the mosque and walked amid the praying community members during the prayer and filmed everything," one community member told Forum 18 in September 2013. "They disturbed the people and told them that they are not praying correctly." The community member added that "it is difficult to say whether the young men came by their own will or were instigated to make a provocation in the mosque".

Muslim Board and state officials have claimed to Forum 18 that allowing independent mosques to exist "will breed terrorists". But officials have not produced proof for these assertions.

## ***Misuse of psychiatry***

Two freedom of religion or belief cases involve apparent misuse of psychiatry against atheist writer Aleksandr Kharlamov and retired Presbyterian pastor Bakhytzhan Kashkumbayev. Both were held against their will for over a month in a psychiatric hospital, and no evidence was ever produced that they needed psychiatric medical help. This misuse also appears to have occurred in the case of human rights defender Zinaida Mukhortova, in which freedom of religion or belief is not involved.

Atheist writer Kharlamov was freed from prison on 4 September 2013 after nearly six months' pre-trial detention, having been arrested on 14 March. During that time he was held for a month in a psychiatric hospital. While in the psychiatric hospital, Kharlamov was not allowed to wear glasses, stopping him from reading, or even have a toothbrush - allegedly on safety grounds.

One doctor told Kharlamov that he had been sent to the psychiatric hospital "because you are an inconvenient person for the authorities". The police investigator responsible for the case, Captain Alikhat Turakpayev of Ridder Police, refused to explain to Forum 18 on what, if any, medically-relevant evidence he ordered two previous psychiatric examinations of Kharlamov.

Despite the state's criminal charge and "expert examination" of Kharlamov's writings, Turakpayev admitted to Forum 18 in April 2013 that "no-one suffered from what he [Kharlamov] wrote on religion". But he is still facing criminal charges for articles he wrote in defence of atheism, having allegedly broken Criminal Code Article 164 Part 1 by allegedly "inciting religious hatred".

A criminal case was brought against Pastor Kashkumbayev, who led Astana's Grace Church until his retirement in October 2011. Kashkumbayev was, while in pre-trial detention from May 2013, held for over a month in a psychiatric hospital. The state claimed he had harmed the health of church member Lyazzat Almenova, and charges were formally brought in February 2012. Almenova repeatedly insisted that Kashkumbayev had not harmed her and that he was "totally innocent".

Masked police searched the Church on 3 October 2012 and seized computers, valuables and religious books they insisted were "extremist" (though they could not explain what was "extremist" or who had declared them so). Police requested church members to give blood specimens to see if the Church uses "hallucinogenic" substances for Communion - local media carried the same allegations. The alleged "hallucinogens" were a commonly drunk local red tea used as a non-alcoholic communion wine. Church members noted that police displayed a curious lack of interest in the allegations they were supposedly investigating.

The defence strongly contested the legality of the trial and the state's claims. The trial finally opened on 22 January 2014, and on 17 February 2014 Kashkumbayev was convicted of harming Almenova's health. He was ordered to pay his alleged "victim" large "moral damages" of 2 Million Tenge (65,800 Norwegian Kroner, 7,900 Euros or 10,800 US Dollars).

Like Kashkumbayev's Grace Church, other Protestant churches are also subjected to investigations on criminal charges, including "harming health" or possession of "extremist" books. However, prosecutors normally refuse to divulge the specific allegations made or how the investigations are proceeding. Such criminal investigations can continue for years.

## ***Prosecution procedure***

Prosecutions alleging that the Religion Law has been broken need to invoke an article of the Administrative Code (Articles 374-1 and 375) or in rare cases the Criminal Code. Administrative Code Article 636 ("Issuing a charge for an administrative offence") gives regional administrations the right to prepare cases to be sent to court for violations of Article 374-1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") and Article 375. Police also have the right to prepare Article 374-1 cases.

### **Administrative Code Article 375**

Amid the 2011 legal amendments, Article 375 ("Violating the Religion Law") was expanded to considerably increase Religion Law "offences" subject to punishment. However, as with the Religion Law, many of the "offences" are not precisely defined, leaving much room for arbitrary official actions.

"Offences" punished in Part 1 are breaking the Religion Law by violating the procedures for: holding religious rites, ceremonies, or meetings for worship; conducting charitable activity; importing, publishing or distributing religious literature and other materials; or building places of worship or changing a building's usage.

Penalties for breaking Part 1 of Article 375 are fines of 50 Monthly Financial Indicators (MFIs) for physical persons, 100 MFIs for leaders of religious associations, and 200 MFIs for legal persons (groups with state registration) with suspension of their activity for three months.

The MFI is set annually, and since 1 January 2014 has been 1,852 Tenge (60 Norwegian Kroner, 7 Euros, or 10 US Dollars). 50 MFIs are equivalent to about one month's average salary.

- "Missionary activities" scope expanded and punishments increased

Article 375, Part 3 punishes: "The carrying out of missionary activity by citizens of the Republic of Kazakhstan, foreigners and persons without citizenship without registration (re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment of a religious studies expert analysis".

The fine for this "offence" is for citizens 100 MFIs. The punishment for foreigners and stateless persons is 100 MFIs with deportation.

As usual in such laws, the definition of "offences" is unclear, allowing room for officials to expand the range of activities they can bring prosecutions for. Two Muslim brothers, Rafael and Kamil Bayshev, were fined 100 MFIs, or about two months' average salary, after inviting two passers-by outside the Central Mosque in Oral (Uralsk) in West Kazakhstan Region to attend night prayers in June 2012.

In an August 2013 case, the presence of several guests at a religious meeting of a state-registered Jehovah's Witness community was enough to cause four fines of 100 MFIs for illegal "missionary activity".

- Other "offences" and punishments

Other "offences" and punishments in Article 375 include leading a religious organisation at the nomination of a foreign religious organisation without state approval.

Violations of Article 375 mostly lead to fines, but could lead to bans of up to three

months or even a permanent ban on a religious community. Foreigners who conduct violations are subject to "administrative deportation". This is also confirmed in Article 730 governing deportations.

Article 375, Part 9 punishes offences under most other Parts of Article 375 committed again within a year with fines of 200 MFIs.

### ***Many fines***

Articles 375 ("Violating the Religion Law") and 374-1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") have long been heavily used to fine individuals and communities exercising their right to freedom of religion or belief.

Over 150 people in 2013 are known to have been fined under these Articles, normally for meeting for worship or sharing their beliefs without state permission. Over 35 people are known to have been fined between January and March 2014.

Most known cases have involved Baptists, Jehovah's Witnesses and some Muslims. Such fines normally accompany raids on meetings by police and other officials, with all the participants being questioned and some being fined. Fines range between the equivalent of one or two months' average wages, depending on whether or not the authorities identify the person concerned as having played a leading role in the "offence".

### ***Exit bans***

People who refuse to pay fines imposed under Articles 374-1 and 375 – which as those fined frequently note break Kazakhstan's Constitution and international human rights obligations – are automatically placed on Justice Ministry lists banning travel outside the country. Human rights defender Yevgeni Zhovtis, of the Kazakhstan International Bureau for Human Rights and the Rule of Law, noted that this "double punishment" isn't governed by any law. He pointed out that "officials of the Justice Ministry's Committee for the Execution of Court Judgments simply take the decision and individuals don't have the proper opportunity to challenge this in court".

### ***Jail***

A number of people have been given short jail terms for refusal to pay fines imposed under Article 375. The jailings are imposed under Administrative Code Article 524 ("Failure to carry out court decisions"). This carries a punishment on individuals of up to 10 MFIs, or up to 10 days' administrative arrest.

Six such cases are known to have taken place in 2013. Four of the six were Council of Churches Baptists and two were Muslims. Four received small fines, but one received a 3-day jail term and the last a one-day jail term.

So far in 2014, seven such jailings of between one and 10 days – all against Baptists – are known to have taken place. For example, shoe-repairer Vyacheslav Cherkasov and plumber Zhasulan Alzhanov were each sentenced to 48-hour prison terms at evening court hearings in Akmola Region on 9 January 2014. "We haven't lodged appeals," Cherkasov told Forum 18 after his release. "There's no point."

### ***Co-operation with other states violating human rights***

In March 2013 – and against a written 28 February request by the UN Committee Against Torture - Khayrullo Tursunov was extradited back to his native Uzbekistan. In early June he was sentenced to 12 years in jail for alleged "extremist" religious activity. Relatives

outside Uzbekistan complained that the case had been "fabricated" to punish him for his religious activity. In a very similar case, the UN Committee against Torture is also investigating the fate of 29 Muslims illegally extradited by Kazakhstan in 2011 back to Uzbekistan.

### ***The future?***

Kazakhstan tries to make exercising human rights conditional upon state permission. It systematically violates intertwined fundamental rights - such as the freedoms of religion or belief, of expression and of assembly - it has solemn international obligations to respect and defend. There is a culture of impunity for such violations among officials. Increasing repression, combined with the threat of further "legal" harshening of laws in 2014, make it likely that the government will continue violating the freedom of religion or belief and intertwined human rights of its citizens and others legally resident in the country.

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## **Kazakhstan: 87-year-old fined, two new five-day prison terms**

By Felix Corley, Forum 18 News Service

Forum 18 (13.03.2014) - Yegor Prokopenko – a religious prisoner of conscience in the 1970s and 1980s – has again been fined for exercising the right to freedom of religion or belief. Now aged 87 and three months, Forum 18 News Service believes him to be the oldest victim of Kazakhstan's policy of fining those who conduct religious activity without state permission. Two five-day prison terms were handed down in March on those refusing to pay fines imposed for exercising religious freedom. In the first 10 weeks of 2014, more than 35 administrative fines (one or two months' average wages) are known to have been handed down. In this period, seven individuals were imprisoned for between one and 10 days for refusing to pay earlier fines.

Former Soviet-era religious prisoner Yegor Prokopenko is among more than 35 individuals known to have been fined in the first 10 weeks of 2014 for exercising their right to freedom of religion or belief. Aged 87 and three months, he is believed to be the oldest victim of Kazakhstan's policy of fining those who conduct religious activity without state permission, Forum 18 News Service notes. Prokopenko was only 86 when he was last fined.

In addition, two Baptists were imprisoned for five days each in early March. They bring to seven the number of individuals known to have been imprisoned for between one and ten days in the first 10 weeks of 2014 for refusing to pay earlier fines imposed to punish them for exercising their right to freedom of religion or belief. Another was given a small fine.

Council of Churches Baptists have adopted a policy of civil disobedience, refusing to pay fines imposed for meeting for worship without compulsory state registration. Council of Churches Baptists think such fines are wrong, as neither Kazakhstan's Constitution nor the country's international human rights obligations allow punishments for exercising human rights without state permission.

A total of 26 Council of Churches Baptists are known to be on the travel ban list because they have refused to pay fines imposed to punish them for exercising the right to



freedom of religion or belief. Prokopenko was until recently also among those banned from leaving Kazakhstan (see below).

The United Nations Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, is due to visit Kazakhstan between 26 March and 6 April, according to the UN Office of the High Commissioner for Human Rights website (<http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/Visits.aspx>).

### ***No comment***

Galym Shoikin, Deputy Chair of the Agency of Religious Affairs (ARA) in the capital Astana, refused to explain to Forum 18 on 13 March why an 87-year-old former Soviet-era prisoner of conscience continues to be among those fined for exercising their right to freedom of religion or belief and why others are given short-term imprisonment for refusing to pay fines.

Alibek Sabdinov, a chief expert at the office of the Ombudsperson for Human Rights in Astana who covers freedom of religion cases, admitted to Forum 18 the same day that the Office has received "numerous" complaints about administrative fines and other punishments.

However, apart from responding to such complaints and explaining the law, and compiling reports to President Nursultan Nazarbayev, he appeared unable to say what steps the Ombudsperson's Office had taken to try to end punishments for exercising the right to freedom of religion or belief. "It is not within our competence to change the Code of Administrative Offences," he told Forum 18.

(The office of Kazakhstan's Ombudsperson for Human Rights is not fully compliant with the Paris Principles on the independence of such national human rights bodies from government, according to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.)

At a 6 March briefing for foreign diplomats at the Foreign Ministry in Astana, Foreign Minister Yerlan Idrisov dismissed concerns over those punished for exercising their right to freedom of religion or belief. "We know of just a few cases of judicial hearings related to representatives of individual confessions," a statement on the Foreign Ministry and ARA websites quoted him as declaring. "I assure you that all these cases are connected with violations of the law of our country. In the majority of cases, these are questions related to the observance of registration norms."

### ***Oldest known victim?***

Prokopenko – who leads a Council of Churches Baptist congregation in Zyryanovsk in East Kazakhstan Region – served a total of six and a half years' imprisonment for his faith during the Soviet period. He served three and a half years of a five-year sentence handed down in 1972, and the full three-year sentence handed down in 1982. He was fined for exercising the right to freedom of religion or belief in 2006, 2008 and 2013 (see F18News 30 October 2013 [http://www.forum18.org/archive.php?article\\_id=1891](http://www.forum18.org/archive.php?article_id=1891)).

The latest trouble began for Prokopenko when police raided the congregation he leads in a private home in Zyryanovsk during Sunday worship on 11 November 2013. Some 70 people, including children, were present. Police officers drew up a record of an offence under Administrative Code Article 374-1, Part 1.

Article 374-1, Part 1 punishes "Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation".

The case was heard on 21 February 2014 under Judge Anaurkhan Kalenov at Zyryanovsk Specialised Administrative Court. "Each Sunday believers gather in a private home to meet their spiritual needs," the verdict – seen by Forum 18 – notes that Prokopenko told the court, "they read the Bible, sing and pray. Creating a religious association is the right of believers, not an obligation. Forcing believers to create a religious association and register he considers to be a violation of the rights and freedoms of believers enshrined in Kazakhstan's Constitution."

Rejecting Prokopenko's argument, Judge Kalenov found him guilty and fined him the maximum, 100 Monthly Financial Indicators (MFIs), 185,200 Tenge (6,000 Norwegian Kroner, 750 Euros or 1,000 US Dollars). This is about two months' average wages for those in work. As a pensioner, Prokopenko receives far less.

### ***Fining 87-year-old man "is the law"***

The verdict claims that Judge Kalenov took into account Prokopenko's age, but also noted that he had been sentenced before for the same "offence".

Judge Kalenov defended his decision to punish an 87-year-old man for exercising his right to freedom of religion or belief. "This is the law," he insisted to Forum 18 from the court on 13 March. "His rights were explained to him in court, and he has appealed against the sentence to the Regional Court." Judge Kalenov declined any other comment, saying he was not allowed to discuss his decisions.

Another court official confirmed to Forum 18 the same day that the court was aware that Prokopenko had been imprisoned for exercising his right to freedom of religion or belief in the Soviet period.

### ***Two five-day prison terms***

On 3 March, Judge Rauza Aliyeva of Petropavl Specialised Administrative Court found local Baptist Aleksandr Pukhov guilty of violating Administrative Code Article 524, according to the verdict seen by Forum 18. She sentenced him to five days' imprisonment, to start that day. Article 524 punishes "Failure to carry out court decisions".

Local Baptists complained to Forum 18 that no church members were allowed into the court to support Pukhov at the hearing.

Pukhov had been fined in January 2013  
(see F18News 5 February 2013 [http://www.forum18.org/archive.php?article\\_id=1798](http://www.forum18.org/archive.php?article_id=1798)).

On 6 March, Judge Serik Amirov of Zhakysy District Court No. 2 similarly found local Baptist Vyacheslav Flocha guilty under Article 524, according to the verdict seen by Forum 18. He sentenced him to five days' imprisonment, to start that day. The Judge claimed that a prison term was "necessary" with the aim of "restoring social justice and the education of the individual who committed the violation, as well as warning against committing new violations".

Flocha, who is married with ten children, also owns the private home in the village of Zaporozhye where the Baptist congregation meets. Local Baptists told Forum 18 that during the trial, Judge Amirov told Flocha verbally that a restraining order was being issued on his home. However, this does not appear in the written verdict.

Flocha had been fined in July 2013  
(see F18News 22 August 2013 [http://www.forum18.org/archive.php?article\\_id=1868](http://www.forum18.org/archive.php?article_id=1868)).

Forum 18 was unable to reach Judge Amirov on 13 March. Court officials told Forum 18 he was away until 17 March.

### **Seven short-term jail terms in 2014 so far**

The seven individuals given short-term jail terms so far in 2014 are:

1. Vyacheslav Cherkasov; CC Baptist; 9 January Burabai District Specialised Administrative Court; Article 524; 2 days.
2. Zhasulan Alzhanov; CC Baptist; 9 January Burabai District Specialised Administrative Court; Article 524; 2 days.
3. Maksim Kandyba; CC Baptist; 20 January Semei Specialised Administrative Court; Article 524; 10 days.
4. Pavel Leonov; CC Baptist; 20 January Ayagoz District Court; Article 524; 3 days.
5. Vitaly Krasilnikov; CC Baptist; 21 January Oskemen Specialised Administrative Court; Article 524; 1 day.
6. Aleksandr Pukhov; CC Baptist; 3 March Petropavl Specialised Administrative Court; Article 524; 5 days.
7. Vyacheslav Flocha; CC Baptist; 6 March Zhaksy District Court No. 2; Article 524; 5 days.

In addition, on 12 February Judge Salim Zhupenov of Nury District Court found Baptist Sergei Lantsov guilty of violating Administrative Code Article 524. He fined him 2 MFIs.

Cherkasov, Kandyba, Leonov, Pukhov and Flocha are already on the exit travel ban list (see below).

### **Fines so far in 2014**

Fines on individuals exercising their right to freedom of religion or belief remain routine in 2014. In 2013, according to a documented list compiled by Forum 18, more than 150 fines on named individuals are known to have been handed down. Those punished include Protestants, Jehovah's Witnesses, Muslims, Hare Krishna devotees and commercial booksellers and traders (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

Fines are handed down under Article 374-1, as well as Article 375.

Article 375, Part 1 punishes "Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship".

Article 375, Part 3 punishes "The carrying out of missionary activity by citizens of the Republic of Kazakhstan, foreigners and persons without citizenship without registration (re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment of a religious studies expert analysis".

These are the known fines so far in 2014, according to court decisions seen by Forum 18:

1. Vyacheslav Cherkasov; CC Baptist; 15 January; Article 375, Part 1; 50 MFIs.
2. Zhasulan Alzhanov; CC Baptist; 15 January; Article 375, Part 1; 50 MFIs.
3. Nikolai Popov; CC Baptist; 15 January; Article 375, Part 1; 50 MFIs.
4. Aleksandr Ventsel; CC Baptist; 15 January; Article 375, Part 1; 50 MFIs.
5. Serkali Kumargaliev; CC Baptist; 16 January Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
6. Vladimir Pestryakov; CC Baptist; 23 January Kokshetau Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
7. Pavel Tokarev; Jehovah's Witness; 23 January Petropavl Specialised Administrative Court; Article 375, Part 3; 100 MFIs.
8. Kenzhetai Baytinov; CC Baptist; 24 January Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
9. Vadim Gritsai; CC Baptist; 29 January Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
10. Nailya Zhevagina; CC Baptist; 29 January Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
11. Viktor Kandyba; CC Baptist; 31 January Semei Specialised Administrative Court; Article 374-1, Part 2; 100 MFIs.
12. Igor Kunitsyn; CC Baptist; 31 January Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
13. Viktor Gordeyev; CC Baptist; 5 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
14. Sergei Kulikov; CC Baptist; 5 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
15. Larisa Smotrova; CC Baptist; 5 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
16. Mariya Dyagileva; CC Baptist; 7 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
17. Yelena Dyachenko; CC Baptist; 7 February Semei Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
18. Nikolai Levin; CC Baptist; 11 February Sandyktau District Court; Article 374-1, Part 1; 100 MFIs.
19. Andrei Labinsky; CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs. Tried in absentia.

20. Serkali Kumargaliev (2); CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
21. Ivan Isaev; CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
22. Ivan Isaev (2); CC Baptist; 11 February Oral Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs. Tried in absentia.
23. Gulsuna Kadenova; Jehovah's Witness; 13 February Oskemen Specialised Administrative Court; Article 375, Part 3; 100 MFIs.
24. Aleksandr Pukhov; CC Baptist; 13 February Petropavl Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
25. Ramil Nizamov; CC Baptist; 13 February Petropavl Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
26. Gulzhibek Baltagireyeva; Commercial bookseller; 17 February Taiynsha District Court; Article 375, Part 1; 100 MFIs.
27. Yegor Prokopenko; CC Baptist; 21 February Zyryanovsk Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
28. Yury Kholod; CC Baptist; 21 February Zyryanovsk Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
29. Boris Pashkin; CC Baptist; 21 February Zyryanovsk Specialised Administrative Court; Article 374-1, Part 2; 50 MFIs.
30. Yury Shlyapkin; CC Baptist; 27 February Kyzylorda Specialised Administrative Court; Article 374-1, Part 1; 100 MFIs.
31. Nikolai Serdyuk; CC Baptist; 6 March Akmola Regional Court; Article 374-1, Part 2; 50 MFIs.
32. Aleksandr Yalfimov; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.
33. N. Anishchenko; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.
34. Tatyana Sultangaliyeva; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.
35. Malik Sultangaliyev; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.
36. Gaukhar Sultangaliyeva; CC Baptist; 12 March Taskala District Court; Article 374-1, Part 2; 50 MFIs.

### ***Unsuccessful administrative cases***

Further administrative cases have been launched against many other religious believers in 2014 under Article 374-1 and Article 375. However, many were cancelled because cases were filed too late after the alleged offence (Olga Pestryakova, Vasily Khairullin,

Vladimir Skumbin, Zhanar Kalieva, Adam Klyatt); sent back because prosecutors or Religious Affairs Department officials had not prepared the cases properly (Yevgeny Lyakhov, Mikhail Tsurkan, Sergei Kucherin, Yuri Toporov); or sent back because those being prosecuted were unable to attend court for medical reasons (Akmara Serikova).

In the cases of Pestryakova, Khairullin, Skumbin and Kalieva, all heard at Kokshetau Specialised Administrative Court on 23 February, Judge Aleksei An issued a special extra decision in each case criticising Galina Bessmertnaya, the official of Akmola Akimat's Religious Affairs Department who had filed the cases after the legal deadline.

Similarly, after three attempts to convict Klyatt at Bulandyn District Court, Judge Lyudmila Tsibul'skaya issued a special extra decision on 3 March criticising the local police officers who had brought the case after the legal deadline and with other procedural violations.

Even though these cases have not yet resulted in fines or other punishments, religious believers have complained to Forum 18 of the time, expense and energy these cases absorb as well as the stress they cause to individuals.

### ***Property seizures and restraining orders***

Those who refuse to pay fines face frequent visits from court bailiffs. In addition to threatening prosecution under Administrative Code Article 524, they often draw up an inventory of an individual or family's property with a view to seizing items to pay off the fines.

On 13 January court bailiffs visited the Kulikov family in Semei (Semipalatinsk) and put a restraining order on the family's washing machine and microwave. At the Kandyba family home in Semei (church leader Viktor Kandyba has 17 children), court bailiffs chose not to put any further property under restraining orders. The restraining order imposed on the Kandybas' home and car in 2007 has not been lifted.

On 14 February, court bailiffs in Oral visited Nikolai Novikov's home and put a restraining order on his car, local Baptists complained to Forum 18. He was fined twice in 2013 (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

On 27 February, court bailiffs seized the car from Sergei Golovanenko for non-payment of a fine handed down in November 2013. Only afterwards did he learn that the seizure order had been completed on 4 February and the deadline for appealing against it had passed, local Baptists complained to Forum 18.

In late 2013, court bailiffs in Ayagoz put a restraining order on Pavel Leonov's property.

### ***Travel bans***

In addition to the threat of further prosecution and restraining orders on their property, those who refuse to pay fines imposed to punish them for exercising their right to freedom of religion or belief are often added to the list of debtors unable to leave Kazakhstan.

A total of 26 Council of Churches Baptists are known to be on the travel ban list as of 13 March: Nail Agatanov, Aleksei Asetov, Raisa Bakenova, Aleksei Buka, Vyacheslav Cherkasov, Tatyana Degterenko, Valentina Dyakova, Vyacheslav Flocha, Aleksandr Gorbunov, Andrei Grigoryev, Dmitry Isaev, Maksim Kandyba, Aleksandr Kerker, Vasili Kliver, Sergei Krasnov, Andrei Labinsky, Pavel Leonov, Nikolai Novikov, Tatyana Osipova, Roman Pugachev, Aleksandr Pukhov, Tamara Yakovenko, Aleksandr Yalfimov, Natalya Yalfimova, Ivan Yantsen and Svetlana Zaitseva.

A further five have had their names removed from the list: Yegor Prokopenko, Serkali Kurmangaliev, T Agaev, Pyotr Zimens, Dana Abekenov and Aliarstan.

Yerlan Syzdykpayev of Zhaksy District court bailiffs admitted that he had initiated the exit travel ban on Flocha. But he said a court decision in December 2013 had confirmed this. "It wasn't me that fined him – I just fulfil the orders of the court," he insisted to Forum 18 on 13 March. "Everything was done in accordance with the law."

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## **Retired Kazakh pastor given suspended jail sentence**

***Pastor expected to appeal; lawyer says trial was 'strange'***

World Watch Monitor (18.02.2014) - The protracted trial of a retired Kazakh pastor ended yesterday (Feb. 18), as 67-year-old Bakhytzhan Kashkumbayev was handed a suspended four-year prison sentence and a fine.

Kashkumbayev, former pastor of Grace Church in the Kazakh capital Astana, was ordered to pay 2 million Tenge (€7,900) in damages to Lyazzat Almenova, a female congregant whose health the pastor was convicted of "harming". His jail term was suspended for three years.

The pastor, whose movements will continue to be restricted, is expected to appeal.

The case against Kashkumbayev dragged on for months after his arrest in May last year, when he was charged with the psychological manipulation of Lyazzat Almenova, 34, through the use of a "red-coloured hallucinogenic drink".

Other members of the congregation claimed the drink was a harmless, non-alcoholic beverage used as part of the church's Holy Communion – to represent the traditionally used, and symbolic, red wine.

Almenova told Forum 18 her pastor was "totally innocent", but the state arrested Kashkumbayev after Almenova's mother claimed her daughter's attendance at the church had damaged her mental health.

The investigation dates back two-and-a-half years; Almenova's mother first submitted her complaint in July 2011.

The pastor was moved to a psychiatric ward in Almaty, the former capital, on July 19, and ordered to remain there until Sept. 17, while he underwent psychiatric examination. He was released early from the ward on Sept. 8, then moved back to prison.

After a court hearing on Sept. 10, the judge set a date of Oct. 17 for the resumption of the case, but the date came and went.

Three weeks ago, the trial resumed only to descend into further chaos as the pastor and his lawyer stormed out of the courtroom, even after several of his original charges were dropped. They claimed the whole court procedure had not been handled properly, with the judge not listening to the petitions.

Kashkumbayev's lawyer Nurlan Beysekeyev told Forum 18 that the trial was "one of the strangest" he had seen. "It was not just strange, but from the standpoint of the law, all types of violations occurred, when the case was opened, when it was being investigated and during the trial," he said.

Almenova's sister Guldana, who was appointed by the court to represent her sister, told Forum 18 she was satisfied with the verdict. "What do you think my reaction to the verdict is? The court recognised that he [Kashkumbayev] is guilty of causing serious harm. I'm satisfied," she said.

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## **Kazakhstan: Criminal conviction, large "moral damages" - and new criminal case?**

Forum 18 (17.02.2014) - Retired Presbyterian Pastor Bakhytzhan Kashkumbayev was this afternoon (17 February) handed a four-year suspended prison term in Kazakhstan's capital Astana. He was convicted under Criminal Code Article 103 ("Intentional inflicting of serious harm to health") of harming the health of a church member, even though that church member has insisted to state authorities, Forum 18 News Service and others that her health was not harmed. He also has to pay his alleged "victim" large "moral damages" of 2 Million Tenge (about 65,800 Norwegian Kroner, 7,900 Euros or 10,800 US Dollars).

Lyazzat Almenova, the only person whose health the state claims was harmed told Forum 18 in July 2013 that Kashkumbayev is "totally innocent and has not harmed my health at all." She had earlier written to Astana Prosecutor's Office to say she is psychiatrically healthy, that a 2012 assessment of her was conducted illegally, and calling for the case to be abandoned.

Prosecutors for reasons they did not explain dropped four other criminal charges levied during the two year investigation. Forum 18 notes that on one of the charges a new criminal case could be launched. The state Agency of Religious Affairs (ARA) has also stated that Grace Presbyterian Church's legal status may be under threat (see below).

The retired Pastor's Grace Presbyterian Church has long been a target of state hostility. For example, after an October 2012 police raid on the Church, detained church members noted that police questioning displayed a curious lack of interest in the alleged harm they were supposedly investigating.

The 67-year-old retired Pastor Kashkumbayev was freed in the court room after eight months' imprisonment, but will live under at present unclear restrictions. He will challenge the conviction.

### ***"One of the strangest cases I have seen in terms of legality"***

"In my experience as a lawyer, this is one of the strangest cases I have seen in terms of legality," Pastor Kashkumbayev's lawyer Nurlan Beysekeyev told Forum 18 after the verdict was handed down orally. "It was not just strange, but from the standpoint of the law, all types of violations occurred, when the case was opened, when it was being investigated and during the trial."

The case against Pastor Kashkumbayev, who led Astana's Grace Church until his retirement in October 2011, originated in 2011 amid claims he had harmed the health of church member Almenova, and the criminal case was formally lodged on 11 February 2012. The defence has strongly contested the legality of the trial.



Both Kashkumbayev and Almenova rejected the claims. Kashkumbayev was only informed of the exact nature of the criminal case on 17 May 2013, the day of his arrest, according to case documents seen by Forum 18.

### ***New criminal case?***

By the time the case reached court on 22 January 2014, prosecutors had added accusations that retired pastor Kashkumbayev had harmed the health of another church member, had committed two counts of "religious extremism" and leading a religious organisation that harms individuals' health.

However, during the trial Prosecutor Olzhas Shalabayev withdrew all but one of the charges with no explanation. The specific accusation of harming another named church member was handed back to prosecutors, the lawyer Beysekeyev told Forum 18. "A new criminal case could be launched against Pastor Kashkumbayev," he warned.

### ***"They shouldn't have violated his rights"***

Atheist writer Aleksandr Kharlamov, who has like Pastor Kashkumbayev also been subjected to arrest, detention and forcible psychiatric examination, welcomed Kashkumbayev's release from prison. "They shouldn't have violated his rights," he told Forum 18 from Ridder in North Kazakhstan Region on 17 February. "I'm glad he's now been released."

Like Kashkumbayev, Kharlamov spent one month's forced detention in a psychiatric hospital in Almaty in 2013, a doctor telling him that he had been sent to the psychiatric hospital "because you are an inconvenient person for the authorities."

Kharlamov is still facing criminal charges for articles he wrote in defence of atheism. He is alleged to have broken Criminal Code Article 164 Part 1 by allegedly "inciting religious hatred."

He wrote to various state agencies on 27 January calling for the criminal case to be dropped. "I have received no response," he told Forum 18. "They're clearly still thinking about it."

### ***Other violations of freedom of religion or belief continue***

The conviction of Kashkumbayev came as the criminal investigation against New Life Pentecostal Church in Almaty may have been behind the exit ban (since removed) which prevented Pastor Maksim Maksimov and his wife Larisa from leaving Kazakhstan on 12 February (see below).

Raids on meetings for worship continue, most recently with a raid on a Baptist Sunday service on 9 February in Aktobe (see below).

The authorities have also begun moves to expel the Din-Muhammed Tatar-Bashkir mosque community from their mosque in Petropavl.

### ***Conviction***

Judge Gulzhakhan Ubasheva of Astana's Almaty District Court No. 2 found retired Pastor Kashkumbayev guilty of violating Criminal Code Article 103, Part 1 ("Intentional inflicting of serious harm to health"). This carries a punishment of restrictions on freedom or

imprisonment of between three and seven years. Prosecutor Shalabayev had asked in court for a three-year prison term.

Judge Ubasheva gave him a four-year prison term, suspended for three years, church members present in court told Forum 18 after the hearing. They said the written verdict is due within 15 days, though the Judge said it should be ready by 21 February. They insisted Pastor Kashkumbayev will appeal against the conviction.

Judge Ubasheva also ruled that pastor Kashkumbayev must sign a statement not to leave the city and must follow "appropriate conduct". It is unclear what exactly this means.

Kashkumbayev was also ordered to pay more than 2 million Tenge "moral damages" to the "victim", including legal costs. As a court ruled that Lyazzat Almenova is not responsible for her own decisions, and appointed her sister Guldana Almenova as her representative, it remains unclear who the money should be paid to.

Pastor Kashkumbayev's lawyer Beysekeyev said he thinks the money will be due to be paid not to Lyazzat Almenova but to her sister Guldana.

Svetlana Glushkova of Radio Free Europe's Kazakh Service noted that the many church members present in court were visibly upset by the verdict.

### ***"I'm satisfied"***

Guldana Almenova lodged the original complaint against Pastor Kashkumbayev in July 2011, according to court documents, alleging that her sister's health had been harmed. Lyazzat Almenova was twice forcibly incarcerated in psychiatric hospital and given a diagnosis of "paranoid schizophrenia of episodic type", a diagnosis she has consistently resolutely rejected.

Police warrants for October 2012 raids on the Grace Church and the unconnected New Life in Oral in West Kazakhstan Region stated at the time that the complaint was lodged by the sisters' mother. Church members have repeatedly strongly denied the allegations. They noted that police questioning ranged far beyond the alleged "harm", and that police and state media also made unsubstantiated claims that the Church uses "hallucinogenic" substances for Communion. The alleged "hallucinogens" were a commonly drunk local red tea used as a non-alcoholic communion wine.

"What do you think my reaction to the verdict is?" Guldana Almenova told Forum 18 after the verdict was given. "The court recognised that he [Pastor Kashkumbayev] is guilty of causing serious harm. I'm satisfied." Asked whether her sister Lyazzat or she will get the money, Guldana Almenova responded: "I don't know. But it's not about the money – it's about the fate of an individual."

Told that Lyazzat Almenova had insisted to Forum 18 that her health was not harmed, Guldana Almenova responded: "She's not in a state to give adequate answers to questions." Both sisters were in court during Pastor Kashkumbayev's trial. After the verdict, Lyazzat Almenova told Glushkova of Radio Free Europe's Kazakh Service that she is fully healthy.

Forum 18 was unable to reach the police Investigator who prepared the case, Captain Vyacheslav Glazkov. His phone went unanswered later on 17 February.

### ***Church's legal status under threat?***

Amid heavy local and foreign criticism of the case against Pastor Kashkumbayev, Galym Shoikin, Deputy Chair of the Agency of Religious Affairs (ARA), insisted to journalists on 3 February that the ARA was merely an observer of the proceedings. "Interference by the Agency in court proceedings would not be appropriate," local news agency Tengrinews quoted him as claiming. However, he noted that the church's registration might be reviewed once the verdict was handed down.

Grace Church finally gained re-registration on 21 December 2012. That registration might now be under threat. Forum 18 was unable to reach Shoikin on 17 February.

All unregistered exercise of freedom of religion or belief is – against international human rights law – illegal in Kazakhstan. Many religious communities, including mosques, have been forcibly closed. Communities complained of arbitrary and flawed decisions, as well as pressure exerted by local authorities on community members. The most recent targets of closure have been the Din-Muhammed Tatar-Bashkir Mosque in Petropavl, and the New Life Protestant Church members in Arkalyk.

Despite Shoikin's claims that the ARA was not involved in the case, Forum 18 has learnt from informed sources in Kazakhstan that the ARA took a close interest in the case. It proposed various outcomes in the case to those close to Pastor Kashkumbayev.

### ***Stopped from leaving***

In the early hours of 12 February, border guards at Almaty airport prevented Pastor Maksim Maksimov and his wife Larisa from catching their flight. "Having kept us in the border guards' office for more than an hour, no-one explained to us the reason for the ban or drew up any record," they complained on their Facebook page the following day. "They told us to go to the KNB [secret police]." The two had been due to fly to Amsterdam and then on to the United States for a broadcasters' conference.

However, after the police's Department for the Struggle with Extremism and Terrorism assured them that the restrictions had been a "mistake" and had been lifted, the Maksimovs bought new tickets for 14 February. Border guards did not prevent them from leaving.

Lieutenant-Colonel Askar Gabdulin, head of the Department for the Struggle with Extremism and Terrorism, refused to discuss anything with Forum 18 on 17 February. "Talk to the press service," he said and put the phone down.

"We wrote to the Prosecutor's Office, the KNB and the Police asking for reasons for the refusal to allow them to leave," a fellow New Life church member told Forum 18 from Almaty on 17 February. "We're still waiting for answers."

The church member added that when they get the answers they will seek to recover the cost of the two new air tickets through the courts.

### ***Travel ban connected with criminal case?***

Almaty's New Life Church has been facing a long-running criminal investigation, though Forum 18 has been unable to find out what criminal charges investigators are considering. The Church and Pastor Maksimov has been repeatedly targeted by the state.

Captain Eldar Musayev, an investigator at Almaty's Turksib District Police, said that he had collected "materials" about the church but insisted that no criminal case against individuals had been launched. "I gave these materials to the city Prosecutor's Office," he

told Forum 18 from Almaty on 13 February. He refused to say if the travel ban on Maksim and Larisa Maksimov was linked to the investigation. He then put the phone down.

The assistant to City Deputy Prosecutor Zhandos Umiraliyev told Forum 18 that the criminal investigation is in the hands of investigator Galymzhan Berdimuratov. However, he denied this to Forum 18 on 17 February. "I just signed one of the documents. Deputy Prosecutor Talgat Khasenov is in charge of the case." Khasenov's assistant told Forum 18 that he was on leave until 24 February.

However, the Prosecutor's Office Chancellery told Forum 18 that Investigator Zhambyl Ermek is handling the case. Yet he too denied it to Forum 18 on 17 February. He insisted he had nothing to do with preventing the Maksimovs from leaving Kazakhstan on 12 February. He said the criminal investigation is now in the hands of Almaty Police, but declined to name the investigator.

No Prosecutor's Office official would say which Criminal Code Articles New Life Church is being investigated under.

### ***Tax inspection***

On 14 February Turksib District tax inspectors led by Chief Specialist Zh. Satiyev arrived at New Life Church to inspect all financial records covering January 2007 to September 2012. Inspectors claimed the church had under-declared income during this period and proposed a massive fine, according to documentation seen by Forum 18.

Church members strongly denied any wrongdoing to Forum 18.

### ***"Usual type" of raid***

In Aktobe on 9 February, about 10 police officers and at least one Prosecutor's Office official raided the local congregation of the Council of Churches Baptists. They refuse to apply for state registration in all the formerly Soviet states where they operate. In 2014 alone four Baptists have been jailed for exercising freedom of religion or belief without state permission.

"Officers arrived soon after the service had finished," one church member told Forum 18 from Aktobe on 17 February. "They filmed us for about an hour and a half, took books from our library and from individuals – one copy of each title - and checked the identity documents of six church members. The usual type of thing."

Council of Churches Baptists are frequent victims of police and prosecutor's office raids. Over 150 people from many faiths, including members of the Aktobe church, were fined after such raids in 2013.

The church was raided because it was meeting without state registration, the Regional Prosecutor's Office said in a 17 February statement on its website. About 70 people, including children, were present at the church. It said 43 seized books were being sent for "religious expert analysis". It said cases were being considered against church members under Article 374-1 of the Code of Administrative Offences.

Articles 374-1, Part 1 ("Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation") and 374-1, Part 2 ("Participation in the activity of an unregistered, halted, or banned religious community or social

organisation") are frequently used to punish people for exercising freedom of religion or belief without state permission.

Maratbek Myrzamuratov, head of the First Section at the Prosecutor's Office, drew up the records at the church, the Press Secretary told Forum 18 on 17 February. However, he was said to be in a meeting each time Forum 18 called him that day.

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## **"We're liquidating the [mosque] community"**

Kazakhstan's Din-Muhammad Tatar-Bashkir Mosque - built in 1852, forcibly closed down in the 1930s under Stalin, and reopened after the end of the Soviet Union - is being forcibly closed down again. Yesterday evening (4 February), three officials of a Liquidation Commission appointed by a court to dissolve the community arrived at the Mosque in Petropavl [Petropavlovsk], in North Kazakhstan Region to prepare an inventory of all its possessions. "The mosque is to be handed over to another religious organisation," Marat Zhamaliyev, deputy head of the regional Finance Department, insisted to Forum 18 News Service on 5 February.

The moves against the Tatar-Bashkir Mosque come just before Kazakhstan's record under the International Convention on the Elimination of All Forms of Racial Discrimination is due to be considered. The United Nations (UN) Committee on the Elimination of Racial Discrimination will consider Kazakhstan's record in Geneva on 12 and 13 February, according to the UN website. The Kazakh delegation has already been informed that the registration of religious communities is one of the topics the Country Rapporteur is set to raise.

### ***"The religious community has been liquidated"***

Zhamaliyev vigorously denied that officials were confiscating the Din-Muhammad Tatar-Bashkir Mosque community's property. "The property will shortly be handed over as communal property to the state," he told Forum 18, "because the religious community has been liquidated."

Told by Forum 18 that the mosque community still exists, regularly holds the namaz (prayers) in the mosque building (including this morning, 5 February) and intends to continue to exist, Zhamaliyev responded: "We're not liquidating the mosque, we're liquidating the community."

Zhamaliyev declined to say which other religious community and of what religious affiliation officials intend to give the mosque to. Asked who had given the state the right to take a place of worship away from one community and give it to any other, he responded: "The law." He insisted that as the Din-Muhammad Tatar-Bashkir Mosque community had failed to gain the compulsory re-registration, it had to be liquidated.

Asked by Forum 18 why the community repeatedly had its re-registration application rejected and why the community cannot continue to exist and meet for worship without registration without being expelled from the mosque building, Zhamaliyev repeated that the juridical community had been liquidated by the court and therefore did not exist. "No-one is banning people from praying," he insisted. "People can go to pray in the new community."

The Din-Muhammad Mosque may possibly be the last remaining publicly-accessible mosque independent of the state-backed Muslim Board, Forum 18 notes (see F18News 2

October 2013 [http://www.forum18.org/archive.php?article\\_id=1882](http://www.forum18.org/archive.php?article_id=1882)). If the mosque community continues to meet together, they risk being fined and being jailed if they do not pay fines. Many people - over 150 in 2013 alone - have been fined for the "offence" of meeting for worship without state permission. In 2014 four people have so far being jailed for non-payment of fines (see F18News 28 January 2013 [http://www.forum18.org/archive.php?article\\_id=1921](http://www.forum18.org/archive.php?article_id=1921)).

### ***Muslims subjected to tightest controls***

Kazakhstan's Muslims are subjected to even tighter state controls than members of other religious communities. All Muslim communities must be part of the state-backed Muslim Board. No independent mosques or Shia Muslim communities have been given state permission to exist. Neither have any Ahmadi Muslim communities, all of whom having been forcibly closed by the state. The Muslim Board's spokesperson told Forum 18 that all Islamic communities "must be Hanafi Sunni Muslim". "We don't have other sorts of Muslims here", he added (see F18News 23 November 2012 [http://www.forum18.org/archive.php?article\\_id=1769](http://www.forum18.org/archive.php?article_id=1769)). The Din-Muhammad Mosque is Hanafi Sunni, but independent.

The state also subjects Muslim communities to special language restrictions which do not apply to other faiths – officials demand that they use Kazakh rather than the language of their choice (Russian, Tatar, Chechen, Azeri) for sermons. Unlike communities of other faiths (Russian Orthodox, Armenian Apostolic, Jewish) they cannot have an ethnic affiliation in their name. The Din-Muhammad Mosque's efforts to negotiate an exception were rejected (see F18News 2 October 2013 [http://www.forum18.org/archive.php?article\\_id=1882](http://www.forum18.org/archive.php?article_id=1882)).

### ***"It's no longer your property"***

In the early evening of 4 February three Liquidation Commission officials arrived unannounced at the mosque for the inventory. They were Abu-Bakir Karmenov of the Religious Affairs Department of the Regional Akimat (administration) and two officials of the Rehabilitation and Bankruptcy Department of the Regional Tax Committee, its head Nurzhan Kaisenov and a chief specialist Lyudmila Bryksina.

Karmenov was the Religious Affairs Department official who had delayed consideration of the community's re-registration application and who lodged the liquidation suit to court after it was rejected. He also represented the Department in court at liquidation hearings, according to court documents seen by Forum 18.

"We had asked them to let us know in advance if they were intending to come," one community member told Forum 18 from Petropavl on 5 February. "But it was better for them if we didn't know."

The three officials counted and listed the carpets on the floor of the prayer hall, the copies of the Koran in Arabic, Tatar, Russian and other languages, furniture and lumps of coal.

"We've never counted the carpets, but there must be about 200," the community member told Forum 18. "These are the personal property of individuals – and their names are marked on the back of each." Some of those who provided the carpets have since died, the community member added.

Officials told mosque members present: "It's no longer your property". Karmenov told them that the building would remain a mosque, but would be handed to another

community. He added that sermons would in future be held only in Kazakh, not in Russian and Tatar as at present.

One mosque member, Artur Temerzhanov, posted video of the 4 February inventory on YouTube (<http://www.youtube.com/watch?v=xvHUUergKQ>). The video shows Bryksina sitting at a desk in the prayer hall listing the carpets as Karmenov and Kaisenov turn them over one by one and read out the names.

"The mosque and everything in it is private property," one mosque member insisted to Forum 18.

### ***"We're not preparing to confiscate the property"?***

"We're not preparing to confiscate the property," Kaisenov of the Rehabilitation and Bankruptcy Department claimed to Forum 18 from Petropavl on 5 February. "We simply did an inventory for the liquidation." He insisted he and his colleagues could do "nothing else" as a court had ordered the community's liquidation.

Kaisenov added that the head of the Finance Department of North Kazakhstan Region, Esken Akimzhanov, and his deputy Zhamaliyev have not yet told him what will happen to the mosque community's property. But he noted that many of those who had given carpets to the mosque had died. He was unable to explain why that gave officials the right to take them from the community.

Chief specialist Bryksina, who compiled the inventory in the mosque, declined to discuss her role. "I am not authorised to answer questions from journalists," she told Forum 18 on 5 February.

Despite repeated calls to the Religious Affairs Department, Forum 18 was unable to reach Karmenov on 5 February. His colleagues said he was out of the office visiting the Akimat.

Karmenov's colleague, Department chief specialist Bolat Omarov, defended the officials' action. "A Liquidation Commission was formed – it's just listing the property," he told Forum 18 on 5 February. "No-one is confiscating anything."

Omarov categorically denied that any order had come down from the capital Astana banning the re-registration of any mosques which choose not to be subordinate to the state-backed Muslim Board. "There could never be such an order," he claimed. He insisted that the only reason the Tatar-Bashkir Mosque had been denied re-registration was because of "mistakes" in the application.

### ***Opened in 19th century, forcibly closed in 21st century***

The Din-Muhammad Mosque is mainly attended by ethnic Tatars and Bashkirs. It was built in 1852 and has been open since, apart from when it was closed during Soviet-era repression of freedom of religion or belief. The mosque community lodged a re-registration application before the Religion Law's October 2012 deadline, receiving no official response (see F18News 7 December 2012 [http://www.forum18.org/Archive.php?article\\_id=1778](http://www.forum18.org/Archive.php?article_id=1778)).

The Din-Muhammad Mosque community and its imam have since faced heavy state pressure because they wish to exercise their freedom of religion or belief. For example, on the night of 20 December 2012 the ARA telephoned the Imam and some elderly members of the community for an 09.00 meeting with the Head of North Kazakhstan Region's administration Serik Bilyalov. He threatened them that if they did not join the

Muslim Board the community would be liquidated and the mosque would be taken over by the local authorities who would use it for some public non-religious purpose. A central ARA official claimed to Forum 18 that "there is no pressure on the mosques" (see F18News 25 January 2013 [http://www.forum18.org/archive.php?article\\_id=1794](http://www.forum18.org/archive.php?article_id=1794)).

The state has also used pressure against other religious communities. Recently for example, members of New Life Protestant Church in Arkalyk [Arqalyq], in the northern Kostanai [Qostanai] Region, have faced state interrogations and threats, particularly targeting state employees. The authorities appear to want to close the Church (see F18News 28 January 2013 [http://www.forum18.org/archive.php?article\\_id=1921](http://www.forum18.org/archive.php?article_id=1921)).

Members of the Din-Muhammad Mosque community continued to gather for prayers in their 19th century mosque, even after a 12 September 2013 court decision rejecting an appeal against compulsory liquidation ordered on 20 February 2013. The appeal court ordered officials to complete the liquidation quickly. Attendance at prayers dropped from hundreds to tens because "people are afraid of the authorities", community members told Forum 18 (see F18News 2 October 2013 [http://www.forum18.org/archive.php?article\\_id=1882](http://www.forum18.org/archive.php?article_id=1882)).

### ***"Any Muslim organisation can register"?***

Despite claiming that "any Muslim organisation can register", Bakhytzhhan Kulekeyev, Director of the Agency of Religious Affairs' (ARA) Interfaith Relations Department, admitted to Forum 18 from Astana on 5 February that only one Muslim organisation – the Muslim Board – gained re-registration after the adoption of the 2011 Religion Law. But he then claimed that mosques of other affiliations had failed to gain re-registration only because of "technical reasons".

Kulekeyev claimed that a Shia mosque in Astana had lodged a registration application "this week". He declined to identify the community or to say if it would be allowed to gain state registration outside the framework of the Muslim Board. He claimed that two other Shia mosques in Almaty and one in Zhambyl function as prayer rooms (namazkhanas) registered by local Akimats.

Asked about the enforced liquidation of the Tatar-Bashkir Mosque in Petropavl, Kulekeyev claimed they had been denied re-registration because "they couldn't write a normal statute". He also rejected the idea that they should be allowed to call themselves "Tatar-Bashkir". "They only allowed Tatars into their mosque," he claimed. Community members vigorously refute this to Forum 18, saying the community is open to all. The community's statute, seen by Forum 18, contains no racial restrictions to participation. The community aims to serve "citizens", according to the statute, with formal membership open to any Kazakh citizen over the age of 18.

Kulekeyev declined to discuss any other aspect of the liquidation of the mosque community.

Kulekeyev absolutely denied that any ban existed on mosques holding sermons in languages other than Kazakh. This contradicts repeated statements to Forum 18 from members of the Tatar-Bashkir Mosque.

### ***State-backed Muslim monopoly***

No published law appears to give the Muslim Board a monopoly over all Muslim activity in Kazakhstan. No published law appears to prevent the state registration of Muslim organisations independently of the Muslim Board. But even a year before the Religion Law was adopted, state officials obstructed the functioning of mosques catering mainly to



members of one ethnic group, such as the Tatars and Bashkirs (see F18News 4 November 2010 [http://www.forum18.org/Archive.php?article\\_id=1506](http://www.forum18.org/Archive.php?article_id=1506)). Officials also threatened to close all independent mosques using the Religion Law a year before it was passed (see F18News 14 October 2010 [http://www.forum18.org/Archive.php?article\\_id=1498](http://www.forum18.org/Archive.php?article_id=1498)).

An Agreement between the ARA and the Muslim Board, signed by ARA head Marat Azilkhanov and Chief Mufti Yerzhan Mayamerov in Almaty on 15 January, implicitly recognises the Board's monopoly. Article 2, Part 2 specifies that the Board "preaches and explains among believers the norms of the Islamic faith in accordance with the Hanafi school and the theological school of [Samarkand-born Islamic scholar] al-Maturidi". The Agreement does not explain why it is the role of the state to determine the theological orientation of a religious community.

The Agreement also obliges the Muslim Board to work with the ARA in religious education and publishing. Again, it is not explained why it is the role of a state agency to determine what a religious community might wish to teach and publish.

The Muslim Board's monopoly has prevented Moscow-based imam Shamil Alyautdinov from presenting his books in Kazakhstan because it – as the only legally registered Islamic organisation – refuses to invite him (see F18News 23 January 2014 [http://www.forum18.org/archive.php?article\\_id=1919](http://www.forum18.org/archive.php?article_id=1919)).

No other local religious community has such an Agreement requiring state intervention in its activity. But Catholic communities have been given different treatment to other communities in state decisions on whether they are allowed to exist. Explaining different treatment for Catholics under a 1998 Agreement with the Holy See, hastily ratified in 2012, a Justice Ministry official in November 2012 told Forum 18 that international agreements override the Religion Law. But he did not explain why this reasoning does not also apply to the International Covenant on Civil and Political Rights, whose provisions would abolish most of the Religion Law including its provisions on compulsory state registration to exercise human rights (see F18News 22 November 2012 [http://www.forum18.org/archive.php?article\\_id=1769](http://www.forum18.org/archive.php?article_id=1769)).

### ***Systemic state violations of freedom of religion or belief***

The closure of independent and ethnic mosques such as the Tatar-Bashkir Din-Muhammad Mosque in Petropavl is part of a wider pattern of systemic Kazakh government violations of freedom of religion or belief and other human rights.

Two laws imposing severe restrictions on freedom of religion or belief and breaking the country's human rights obligations came into force in October 2011. A new Religion Law among other restrictions imposes a complex four-tier registration system, bans unregistered religious activity, and imposes compulsory state censorship of religious literature and objects. A new Administrative Code Article 375 ("Violation of the Religion Law") – replacing the previous Article 375 – was introduced at the same time in an Amending Law. It punishes a wide range of often unclearly defined "offences" with possible fines for individuals and groups with state-registration, and bans on the activity of "guilty" religious groups (see F18News 23 September 2011 [http://www.forum18.org/Archive.php?article\\_id=1617](http://www.forum18.org/Archive.php?article_id=1617)).

Since the Religion Law was passed, all mosques outside state control are being closed down. The imam and members of an independent mosque denied re-registration after intense state pressure – who asked not to be identified for fear of state reprisals – told Forum 18 that when they met to discuss applying for new registration, officials "came out of nowhere" and threatened them with punishment (see F18News 2 October 2013 [http://www.forum18.org/archive.php?article\\_id=1882](http://www.forum18.org/archive.php?article_id=1882)).

Followers of a very wide range of religions and beliefs are targeted by the state for human rights violations. The criminal case launched against retired Presbyterian pastor Bakhytzhan Kashkumbayev in July 2011 is still proceeding, having finally reached court on 22 January 2014. Similarly, the criminal investigation of atheist writer Aleksandr Kharlamov also continues. Both have been subjected to arrest, detention and forcible psychiatric examination (see F18News 22 January 2014 [http://www.forum18.org/archive.php?article\\_id=1918](http://www.forum18.org/archive.php?article_id=1918)).

Four people – all Baptists – have been jailed in 2014 alone for refusing to pay fines handed down in 2013 to punish them for exercising freedom of religion or belief without state permission. Numerous fines continue to be imposed under Administrative Code Article 375 for this "offence" (see eg. F18News 28 January 2014 [http://www.forum18.org/archive.php?article\\_id=1921](http://www.forum18.org/archive.php?article_id=1921)). In 2013 alone, over 150 people are known to have been fined for exercising this internationally-recognised human right (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

Among the many targets of state censorship of religious literature and objects, including bans on bookshops selling of such items without state permission, have been Russian Orthodox icons. After 12 icons and three Bibles were seized from a commercial bookseller in Oral (Uralsk) in West Kazakhstan Region, the bookseller is due to face an administrative court where he may be fined several weeks' average wages and the icons and Bibles might be ordered destroyed. "Everything is OK now – he has agreed not to sell religious materials," Salamat Zhumagulov, the state religious affairs official who seized the items, told Forum 18. The ARA spokesperson Saktagan Sadvokasov claimed that "the Kazakh state must defend our citizens from harmful materials". Asked by Forum 18 whether he has known icons which are harmful, he replied: "We have experts to check icons" (see F18News 8 January 2014 [http://www.forum18.org/archive.php?article\\_id=1913](http://www.forum18.org/archive.php?article_id=1913)).

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## **Kazakh pastor's trial halts amid heated arguments**

### ***Pastor and lawyer refuse to participate after two charges are dropped***

World Watch Monitor (31.01.2014) - The trial of a 67-year-old pastor in Kazakhstan halted amid heated arguments on Wednesday (January 29), as the pastor and his lawyer stormed out of the courtroom, even after two of his original charges were dropped.

The pastor and his lawyer say the whole court procedure has not been handled properly, with the judge not listening to the petitions.

Bakhytzhan Kashkumbayev has been detained since May 2013, following accusations of "harming the health" of one of his parishioners at Grace Protestant Church in Astana, the Kazakh capital.

He is also charged with inciting hatred. Further charges of propagating extremism and leading an organisation that harms others were dropped at the court hearing in Astana.

The trial was scheduled to reconvene today (January 31), although its future is now in doubt after first the pastor and then his lawyer refused to participate, forcing the judge to end the session amid heated exchanges.

It is uncertain whether a new lawyer will be called and whether Kashkumbayev would accept this alternative, without which the case would be brought to a standstill.

The case against Kashkumbayev has dragged on for months since his arrest on May 17 last year, when he was charged with the psychological manipulation of Lyazzat Almenova through the use of a "red-coloured hallucinogenic drink".

Other members of the congregation say the drink is a harmless, non-alcoholic beverage used as part of the church's Holy Communion – to represent the traditionally used, and symbolic, red wine.

The investigation dates back two-and-a-half years; Almenova's mother first submitted her complaint in July 2011.

Almenova told Forum 18 News her pastor was "totally innocent", but the state arrested Kashkumbayev after Almenova's mother claimed her daughter's attendance at the church had damaged her mental health.

The pastor was moved to a psychiatric ward in Almaty, the former capital, on July 19, and ordered to remain there until Sept. 17, while he underwent psychiatric examination. He was released early from the ward on Sept. 8, only to be moved back to prison.

After a court hearing on September 10, the judge set a date of October 17 for the resumption of the case, but this date came and went.

Three months later the trial has resumed only to descend into further chaos.

If found guilty, Kashkumbayev could face a lengthy prison term.

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## **Kazakhstan: Jailed for refusing to pay fines for exercising human rights without state permission**

Forum 18 (28.01.2014) - A Baptist in Semey in Kazakhstan is due to complete a 10-day prison term on 30 January, Forum 18 News Service has learned. Maksim Kandyba was jailed for refusing to pay a fine for attending a meeting for worship without state permission. Sentenced on the same day to three days' imprisonment was fellow Baptist Pavel Leonov. These are the third and fourth such known jailings in 2014. Such fines continue to be imposed, recently on Baptists and Jehovah's Witnesses. Kandyba and Leonov, like other Council of Churches Baptists, refuse to pay such fines. They point out that neither Kazakhstan's Constitution nor the country's international human rights obligations allow punishments for exercising human rights without state permission. But Aynura Shaimukhambetova of the Prosecutor's Office rejected Forum 18's observation that Kandyba's right to practice his faith freely is protected by international human rights commitments. Elsewhere, New Life Protestant Church members in Arkalyk have faced state interrogations and threats, particularly targeting state employees. The authorities appear to want to close the Church down. A Deputy Prosecutor refused to tell Forum 18 how many had been interrogated, or what he thinks they have done wrong.

A 19-year-old Baptist in Semey [formerly Semipalatinsk] in East Kazakhstan Region is due to complete a 10-day prison term on 30 January, Forum 18 News Service has learned. Maksim Kandyba is being punished for refusing to pay a fine handed down in June 2013 to punish him for attending a meeting for worship without state permission. The verdict seen by Forum 18, says he had to be given the maximum term of imprisonment because of the "social danger" of his refusing to pay the fine. Sentenced to three days' imprisonment elsewhere in the same Region on the same day on the same grounds was fellow Baptist Pavel Leonov.

Kandyba and Leonov, like other Council of Churches Baptists, have adopted a policy of civil disobedience, refusing to pay fines imposed for meeting for worship without compulsory state registration. Council of Churches Baptists think such fines are wrong, as neither Kazakhstan's Constitution nor the country's international human rights obligations allow punishments for exercising human rights without state permission.

In 2013 alone, more than 150 people including Kandyba and Leonov are known to have been fined for exercising freedom of religion or belief without state permission (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)). Kandyba and Leonov are – like others who refuse to be fined for exercising their human rights - already on the list of those banned from leaving Kazakhstan. At least eight other members of Kandyba's church – including his father – are also facing administrative punishments.

Numerous similar fines continue to be imposed. Kandyba's and Leonov's prison terms are the third and fourth known jailings in 2014 for refusal to pay fines imposed for exercising the right to freedom of religion or belief. Two fellow Baptists, Vyacheslav Cherkasov and Zhasulan Alzhanov, were each sentenced to 48-hour prison terms in Akmola Region on 9 January (see F18News 14 January 2014, [http://www.forum18.org/archive.php?article\\_id=1915](http://www.forum18.org/archive.php?article_id=1915)).

### ***Pastor's criminal trial due to resume tomorrow***

Meanwhile, the criminal trial of retired Presbyterian pastor Bakhytzhan Kashkumbayev in the capital Astana is due to resume tomorrow morning (29 January). Further hearings are scheduled for 30 and 31 January, according to the court website. The 67-year-old retired pastor is accused of "harming health" and "inciting hatred", charges he and his Grace Church vigorously reject (see F18News 22 January 2014 [http://www.forum18.org/archive.php?article\\_id=1918](http://www.forum18.org/archive.php?article_id=1918)). However, prosecutors withdrew charges of propagating "extremism" and leading an organisation that harms others on the first day of his trial on 22 January.

### ***UN Special Rapporteur on Freedom of Religion or Belief visit planned***

Kazakhstan's government has agreed to a visit to the country by the United Nations Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, "during the first quarter of 2014", the Special Rapporteur noted in his 26 December 2013 report (A/HRC/25/58) to the UN Human Rights Council (see [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-58\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-58_en.doc)).

### ***"He does not consider himself guilty"***

Kandyba, a third year technology student, was among 11 members of his Baptist church fined for exercising the right to freedom of religion or belief in 2013 (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

Kandyba was found guilty on 6 June 2013 at Semey Specialised Administrative Court under Administrative Code Article 374-1, Part 2 ("Participation in the activity of an unregistered, halted, or banned religious community or social organisation"). He was fined 50 Monthly Financial Indicators (MFIs), 86,550 Tenge (about 3,500 Norwegian Kroner, 400 Euros or 560 US Dollars). This is equivalent to about one month's wages for those in work.

On 3 July 2013 East Kazakhstan Regional Court rejected his appeal. He refused to pay, insisting both to the court and subsequently to court bailiffs that he should not be punished for exercising his right to freedom of religion or belief.

Prosecutors then launched a case under Administrative Code Article 524 ("Failure to carry out court decisions"). This carries a punishment on individuals of up to 10 MFIs or up to 10 days' administrative arrest.

At his trial on 20 January 2014 at Semey Specialised Administrative Court, Kandyba repeated his earlier assertions that "he does not consider himself guilty and has no intention of paying the fine," according to the court decision seen by Forum 18. Judge Nurlan Nuralinov found him guilty and sentenced him to the maximum term of 10 days' imprisonment.

### ***"Social danger"***

The Judge considered the maximum punishment was necessary "in view of the social danger of the given offence, its deliberate character and the personality of the offender, who did not recognise his guilt, did not repent of it, and openly admits that he ignores court decisions".

Aynura Shaimukhambetova of the Prosecutor's Office, who led the prosecution case in court, defended her actions. "Kandyba hadn't paid the fine," she insisted to Forum 18 from Semey on 28 January. "He violated the Religion Law." She rejected Forum 18's observation that Kandyba's right to practice his faith freely is protected by Kazakhstan's Constitution and the country's international human rights commitments. She then put the phone down.

The Religion Law is part of systemic Kazakh government violation of freedom of religion or belief and other human rights, being one of two laws breaking the country's human rights obligations which came into force in October 2011. A new Religion Law among other restrictions imposes a complex four-tier registration system, bans unregistered religious activity, and imposes compulsory state censorship of religious literature and objects. An expanded Administrative Code Article 375 ("Violation of the Religion Law") - replacing the previous Article 375 - was introduced at the same time in an Amending Law. It punishes a wide range of often unclearly defined "offences" with possible fines for individuals and groups with state-registration, and bans on the activity of "guilty" religious groups (see F18News 23 September 2011 [http://www.forum18.org/Archive.php?article\\_id=1617](http://www.forum18.org/Archive.php?article_id=1617)).

### ***Another punishment?***

On 14 January, prosecutors brought a similar case under Article 524 against fellow-church member Sergei Kulikov, punished with the same penalty as Kandyba on the same day in 2013

(see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

However, when Kulikov's case reached Semey Specialised Administrative Court on 20 January, Judge Gibrat Valiyev returned the case to the court bailiffs as the case documentation had not been prepared properly, according to the decision seen by Forum 18.

### ***3-day imprisonment***

On 20 January, the same day that Kandyba was imprisoned, fellow Council of Churches Baptist Leonov was sentenced to a three-day prison term. Judge Bakdarly Orazbek at Ayagoz District Court in East Kazakhstan Region similarly found him guilty of violating Administrative Code Article 524, according to the court decision seen by Forum 18.

Leonov had refused to pay a fine of 100 MFIs handed down on 4 March 2013 by Ayagoz District Court under Article 374-1, Part 1. East Kazakhstan Regional Court rejected his

appeal on 1 April 2013. He had already served a one-day prison term under Article 524 handed down on 5 August 2013 for refusal to pay the same fine. Prosecutors also threatened to launch a criminal case against him (see F18News 30 October 2013 [http://www.forum18.org/archive.php?article\\_id=1891](http://www.forum18.org/archive.php?article_id=1891)).

"In November 2013 Leonov was told verbally that the criminal case would be closed and he would be informed in writing of this," Council of Churches Baptists told Forum 18. "However, so far he hasn't received anything."

### ***Seven more fines to come?***

At least seven members of the Semey Council of Churches Baptist congregation also face administrative prosecution in a series of cases launched after a would-be visitor to the congregation's meeting for worship on 8 December 2013 lodged complaints to police that five named church members were preaching "extremism". The individual, who church members say is registered as an out-patient at a psychiatric facility and had been among those fined in 2013, was denied entry after disrupting earlier church services, church members told Forum 18.

A local police officer and an official of the Emergency Situations Ministry were called to the service. After the five church members wrote statements, the police officer left. However, he arrived again a week later, and demanded statements from five more church members.

On 13 January 2014, the local police officer handed these church members notifications that administrative cases had been opened against each of them by Semey Prosecutor's Office. All five were charged under Administrative Code Article 374-1, Part 2 ("Participation in the activity of an unregistered, halted, or banned religious community or social organisation") – the same "offence" Kandyba was originally convicted of.

The first case to reach court was that of Yelena Dyachenko. However, on 24 January Judge Amanbai Aldiyarov of Semey Specialised Administrative Court returned the case to prosecutors as the documentation had not been prepared properly, according to the decision seen by Forum 18.

Cases against church leader Viktor Kandyba (Maksim Kandyba's father), Nailya Zhevagina, Igor Kunitsyn, Viktor Gordeyev, Vadim Gritsai and Anatoly Stakhnev reached court on 16 and 17 January, according to court records seen by Forum 18. No dates for hearings have yet been set.

Nerzhan Aurbakirov of Semey Prosecutor's Office defended the new court cases. He refused to explain what church members had done wrong. "Courts take decisions, and if they don't agree with any court decisions they can appeal," he insisted to Forum 18 on 28 January. He then put the phone down.

### ***"Missionary activity and agitation" fines***

Jehovah's Witnesses continue to be fined for talking to other people on the streets or at people's doors about their faith. Most are punished under Administrative Code Article 375, Part 3 ("The carrying out of missionary activity by citizens of the Republic of Kazakhstan, foreigners and persons without citizenship without registration (re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment of a religious studies expert analysis").

After a five minute conversation with one resident and a ten-minute conversation with another in Petropavl [Petropavlovsk] in North Kazakhstan Region on 12 November 2013,

a plain-clothed officer of the police Department for the Struggle with Extremism, B. Musakulov, detained two Jehovah's Witnesses, Inna Semyonova and Pavel Tokarev.

Bolat Omarov, chief specialist at the Religious Affairs Department of North Kazakhstan Regional Akimat (administration), brought prosecutions against the two. On 30 December 2013, Judge Aslambek Koshenov of Petropavl Specialised Administrative Court found Semyonova guilty under Administrative Code Article 375, Part 3, according to the court decision seen by Forum 18. He fined her 100 MFIs, 173,100 Tenge. Semyonova's appeal to North Kazakhstan Regional Court was rejected on 23 January, according to the court decision seen by Forum 18.

Musakulov of the police Department for the Struggle with Extremism told Petropavl Specialised Administrative Court that he had received a call (he did not say who from) that "unknown people had been conducting missionary activity and agitation among the civil population and were distributing books and leaflets of a religious nature". On detaining them he had established that they were Semyonova and Tokarev.

Tokarev's case was finally heard at Petropavl Specialised Administrative Court on 23 January, according to court records. He was found guilty under Article 375, Part 3 and fined 100 MFIs, 185,200 Tenge calculated at the new rate from 1 January 2014.

Forum 18 was unable to reach Musakulov at the Department for the Struggle with Extremism in Petropavl. His superior officer – who would not give his name – said on 28 January that Musakulov was not in the office. He totally refused to explain why Musakulov thought Semyonova and Tokarev were "extremists" who should be detained and prosecuted.

### ***Fines, fines***

Other cases have been brought recently against Jehovah's Witnesses under Administrative Code Article 375, Part 3:

Orynkul Tleuzhanova was fined 100 MFIs by Judge Darkhan Kentbayev at Aral District Court on 15 November 2013. Her appeal was rejected on 5 December 2013 by the southern Kyzylorda [Qyzylorda] Regional Court, according to the verdicts seen by Forum 18.

Mikhail Tsurkan and Sergei Kucherin had administrative cases launched against them in Kurchatov in East Kazakhstan Region on 30 December 2013.

Gulsuna Kadenova and Akmaral Serikova had administrative cases launched against them in Oskemen in East Kazakhstan Region on 10 January 2014. The cases were handed to Oskemen Specialised Administrative Court on 15 January, according to court records.

### ***Threats, interrogations***

Meanwhile, members of New Life Protestant Church in Arkalyk [Arqalyq] in the northern Kostanai [Qostanai] Region have faced interrogations and threats from the authorities, the Church's pastor Aleksii Fedoskin told Forum 18 from the town on 28 January. Officials of the Akimat and the Prosecutor's Office are particularly pressuring state employees who signed the church's successful re-registration application in 2012.

Many religious communities complained of what they variously described as the Religion Law's "complex", "burdensome", "arbitrary", "unnecessary" and "expensive" compulsory re-registration process – which broke Kazakhstan's international human rights obligations (see F18News 21 November 2012[http://www.forum18.org/archive.php?article\\_id=1768](http://www.forum18.org/archive.php?article_id=1768)).

On 2 December 2013 two church members were summoned to the Akimat. One works for the prison service, the other for a state educational institution. All 52 signatories to the re-registration application seem to have been later summoned to Daryn Zhapabayev, one of Arkalyk's Deputy Prosecutors, or Arkalyk's Deputy Akim, Yeslambek Mametekov.

"Our church members were questioned as to why they joined the church, why they attend and why they signed the re-registration application," Pastor Fedoskin complained to Forum 18. "They were pressured to sign pre-prepared statements that they had not understood what they were signing."

At at least two of the interrogations at the Prosecutor's Office, church members' superiors from their workplace were also present.

After the initial pressure to sign statements, Pastor Fedoskin complained and called on prosecutors to halt the pressure. "The situation went quiet, but restarted in early January," he told Forum 18.

Pastor Fedoskin said he does not know how many of the 2012 re-registration application signatories have withdrawn their signatures on the re-registration application. He fears that if the number goes below the required 50 for applications, the authorities may begin moves to strip the congregation of state registration. Without such registration, any activity the congregation undertakes would be illegal.

Kazakhstan used the Religion Law's re-registration process to close many religious communities, including mosques, after the deadline for re-registration applications expired. Communities complained of arbitrary and flawed decisions, as well as pressure exerted by local authorities on people to withdraw their signatures from founding documents

(see F18News 11 December 2012 [http://www.forum18.org/archive.php?article\\_id=1780](http://www.forum18.org/archive.php?article_id=1780)).

"Prosecutors have already told me the Justice Department is checking the legality of the congregation's registration, but the Justice Department has not contacted me," Pastor Fedoskin told Forum 18.

### ***KNB secret police surveillance***

On 8 December 2013, a National Security Committee (KNB) secret police officer attended the church's Sunday service, using a hidden camera to film those present. "I saw him using a hidden camera, so I approached him after the service and asked who he was," Pastor Fedoskin told Forum 18. "However, he would not identify himself. Church members afterwards told me he was from the KNB and his surname is Alimbayev. It's a small town and everyone knows everyone else."

All religious communities are thought to be under surveillance by the ordinary police and KNB secret police (see eg. F18News 29 February 2012 [http://www.forum18.org/Archive.php?article\\_id=1673](http://www.forum18.org/Archive.php?article_id=1673)).

Many communities are reluctant to discuss this - including KNB attempts to recruit informers - for fear of state reprisals. There have also been apparent attempts to smear or blackmail members of some religious communities (see F18News 16 April 2013 [http://www.forum18.org/archive.php?article\\_id=1825](http://www.forum18.org/archive.php?article_id=1825)).

### ***"No threats"***

Deputy Prosecutor Zhapabayev claimed to Forum 18 on 24 January that "no threats" had been used against New Life church members. However, he totally refused to say how



many church members had been interrogated, or what he thinks they have done wrong. He then put the phone down.

Despite repeated calls on 28 January, Forum 18 was unable to reach Deputy Akim Mametkov. His assistant said he was out of the office at a meeting.

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## **Kazakhstan: Do foreigners have religious freedom?**

Forum 18 (23.01.2014) - Courts ordered two further fines and deportations in late 2013 of foreign citizens legally resident in Kazakhstan simply for exercising the right to freedom of religion or belief, Forum 18 News Service notes. Polish cardiologist Robert Panczykowski had preached at a Jehovah's Witness meeting, while Kyrgyz citizen Shamurat Toktoraliyev had discussed his faith in a private flat. A further case is pending. Anti-"Extremism" officer Smayil Konyrbai who raided the meeting singled out Panczykowski because he spoke "with an accent", the court decision notes. "It's not racism, it's my job," Konyrbai insisted to Forum 18. Moscow Imam Shamil Alyautdinov has been blocked from presenting his books in Kazakhstan because the only legally registered Islamic organisation – the Muslim Board – refuses to invite him. Without personal registration as a "missionary", any public appearance would be illegal.

A further two foreign citizens legally resident in Kazakhstan – one Polish and the other Kyrgyz - were ordered deported by the courts in late 2013 for exercising their right to freedom of religion or belief, Forum 18 News Service has learned. One had preached at a Jehovah's Witness meeting, the other had discussed his faith with two interested young people in a private flat. Court hearings that might lead to the deportation of another, a Russian citizen, are likely to begin in Kazakhstan's commercial capital Almaty on 4 February.

Two other religious leaders are known to have been deported in 2013 despite having valid residency. Baptist pastor Viktor Lim was fined and ordered deported for leading a registered religious community and left Kazakhstan in August 2013. Lim, a stateless person, had lived in the country for 20 years and his wife and children are Kazakh citizens. The authorities classed his action as "illegal missionary activity". In addition, Protestant Pastor Vyacheslav Li (whose wife and two young children are Kazakh citizens) was deported in July 2013 after committing eight administrative offences in the eight years he lived legally in Kazakhstan (see F18News 4 October 2013 [http://www.forum18.org/archive.php?article\\_id=1883](http://www.forum18.org/archive.php?article_id=1883)).

And amid further tight restrictions on what foreign citizens are allowed to do, Moscow-based imam Shamil Alyautdinov has been barred from openly presenting his books on Islam in bookshops in Kazakhstan for the past year because the only registered Muslim religious organisation in the country (the Muslim Board or Muftiate) has refused to invite him. Without such an invitation, Religious Affairs Departments in local administrations will not grant him personal accreditation as a "missionary" which they insist is required for him to conduct any activity relating to religion (see below).

Kazakhstan's international human rights obligations make no distinction between the human rights of citizens and non-citizens, as everyone - even stateless persons - has human rights. Article 18 of the International Covenant on Civil and Political Rights (ICCPR), which Kazakhstan ratified in 2006, firmly states that "everyone shall have the right to freedom of thought, conscience and religion".

### ***Population "satisfied" with restrictions?***

Saktagan Sadvokasov, spokesperson for the government's Agency of Religious Affairs in the capital Astana, declined to answer directly Forum 18's question as to whether foreign citizens legally resident in Kazakhstan enjoy the same rights to freedom of religion or belief as local citizens. But he vigorously defended the restrictions on foreigners' religious activity enshrined in the 2011 Religion Law.

"The Law embodies the views of the people of Kazakhstan," Sadvokasov claimed to Forum 18 on 21 January. "The Law was passed by parliament and parliament expresses the will of the people. The head of state signed the Law. The population is fully satisfied with it, and welcomes and respects it."

The 2011 Religion Law and another law adopted at the same time attracted strong criticism from some parliamentary deputies, as well as civil society organisations, human rights defenders, many religious communities in Kazakhstan, and the Organisation for Security and Co-operation in Europe (OSCE)

(see F18News 13 October 2011 [http://www.forum18.org/archive.php?article\\_id=1624](http://www.forum18.org/archive.php?article_id=1624)).

Asked about why foreign citizens legally resident in Kazakhstan are targeted for deportation for exercising their right to freedom of religion or belief in a non-professional capacity, Sadvokasov responded: "It is your opinion that this is a restriction of their rights." He insisted that any action against such individuals is not by his Agency but by "law-enforcement" agencies and in line with the Religion Law.

Forum 18 read Sadvokasov part of the court decision in the case of Polish citizen Robert Panczykowski where a Police Anti-Extremism officer targeted him simply because he was addressing a meeting within a religious community "with an accent". Sadvokasov dismissed suggestions that this amounted to racism. Stressing that he was not familiar with the case, he insisted that there is "no racism" in Kazakhstan and that "no discrimination on the basis of language or race" occurs.

Sadvokasov claimed also to be unaware of the obstacles preventing Moscow imam Alyautdinov taking up invitations to present his books on Islam in Kazakhstan for the past year. Those inviting him "can apply to the state organs", Sadvokasov insisted. Asked why an individual needs an invitation from a registered religious organisation to present their books on religion in a local bookshop and hold seminars on their faith, he repeated that the Religion Law requires it.

### ***Ombudsperson's Office "can't say" what help it offered***

Equally unwilling to defend the rights to freedom of religion or belief of foreign citizens legally resident in Kazakhstan was Alibek Sabdinov, a chief expert at the office of the Ombudsperson for Human Rights in Astana. (The office of Kazakhstan's Ombudsperson for Human Rights is not fully compliant with the Paris Principles on the independence of such national human rights bodies from government, according to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.)

Sabdinov said that the Ombudsperson's Office receives appeals from foreigners over restrictions to their right to freedom of religion or belief. However, he declined to say how many have been received or who from. "I can't say what help our Office has offered," he told Forum 18 on 21 January, "but we work closely with state agencies, including the Agency of Religious Affairs, and explain to individuals the provisions of the Religion Law. Any foreigner must know the law."

Sabdinov claimed that the 2011 Religion Law "meets international norms", including the restrictions on foreign citizens' rights to religious freedom when in Kazakhstan. He

claimed that European countries impose the same requirements. Asked to name any, he specified France. He pointed out that in Kazakhstan both foreign and local citizens require registration as "missionaries" if they try to spread their faith.

### ***Anti-"extremism" raid because "people had gathered"***

Trouble began for Polish citizen Panczykowski and his Jehovah's Witness community in Aktobe on 24 August 2013, according to the court decision seen by Forum 18. An officer of Aktobe Region's Police Department for the Struggle With Extremism Smayil Konyrbai told the subsequent hearing on Panczykowski's case that he had received calls (he did not say who from) that "people had gathered" at the city's Jehovah's Witness place of worship.

Konyrbai and two colleagues then arrived at the meeting, where more than 500 Jehovah's Witnesses had gathered. He said community members had refused to allow officers to film, record or take photographs. The Anti-"Extremism" officers listened to Panczykowski's talk. "In connection with the fact that the given individual spoke with an accent, they approached him after the end of the service and asked for his documents, which he provided," the court decision notes in its account of Konyrbai's testimony.

The court record does not explain why officer Konyrbai and his colleagues visited a religious meeting in a registered place of worship of a registered religious community simply because "people had gathered" there.

Panczykowski was accused of acting as a missionary without personal registration as a missionary under Code of Administrative Offences Article 375, Part 3 ("The carrying out of missionary activity by citizens of the Republic of Kazakhstan, foreigners and persons without citizenship without registration (re-registration), as well as the use by missionaries of religious literature, informational materials of religious content or objects of religious significance without a positive assessment of a religious studies expert analysis"). In addition to the fine, the Article specifically mandates deportation for foreigners.

### ***"It's not racism, it's my job"***

Anti-"Extremism" officer Konyrbai refused to explain why he and his colleagues had raided a religious meeting simply because "people had gathered". He refused to explain why this was an issue for his Department. He rejected suggestions that singling out Panczykowski because of his accent might represent racism. "It's not racism, it's my job," he insisted to Forum 18 from Aktobe on 21 January.

Konyrbai refused to answer any other questions. "I'm a state official and can answer no questions by phone," he told Forum 18 and put the phone down.

### ***Fine and deportation***

At a hearing on 18 November 2013 at Aktobe Specialised Administrative Court, Panczykowski insisted that he was not a missionary and had not been appointed a missionary by any Jehovah's Witness body. He insisted he was merely telling those present of his personal beliefs.

However, Judge Saule Spandiyarova rejected his defence. She fined him the maximum 100 Monthly Financial Indicators (MFIs), 173,100 Tenge (6,800 Norwegian Kroner, 800 Euros or 1,100 US Dollars). This represents about two months' average wages. She also ordered his deportation, according to the court decision seen by Forum 18.

The court decision notes that Panczykowski was working as coordinator for Karaganda's

Cardiological and Cardio-Surgical Service, had a valid residence permit issued in November 2009 and had a Kazakh personal identity number. Officials at Karaganda Regional Cardio-Surgical Centre gave varying accounts of his involvement. One told Forum 18 on 21 January that they knew Panczykowski well. However, the Centre's personnel department insisted to Forum 18 that he "never worked here" and was a representative working with other Polish doctors in the city.

On 13 December 2013, Aktobe Regional Court rejected Panczykowski's appeal, according to the decision seen by Forum 18.

Jehovah's Witnesses told Forum 18 that Panczykowski "is a businessman who for the past 10 years has been organising training for Kazakhstan's cardiologists by eminent experts from Poland". More than 800 of Kazakhstan's doctors have received this specialised training, including doctors in the Nazarbayev Cardiac Centre in Astana, they added.

Panczykowski has not yet paid the fine and has not yet left Kazakhstan as he is appealing to the General Prosecutor's Office, Jehovah's Witnesses told Forum 18.

### ***Deported for private discussion***

In a similar case in Astana, Jehovah's Witness Shamurat Toktoraliev – a Kyrgyz citizen - was fined 100 MFIs under the same Administrative Code Article 375, Part 3. In her 18 November 2013 decision, seen by Forum 18, Judge Kazima Aitkaliyeva of Astana's Specialised Inter-District Administrative Court also ordered Toktoraliev's deportation.

The administrative case had been launched after a named local woman had called the police to say Toktoraliev and another Jehovah's Witness Talgat Belbayev were visiting two young men – one of whom was her nephew - in their home at their invitation on 25 September 2013. The two men had already attended Jehovah's Witness meetings.

Why the woman had called the police about two people accepting an invitation to talk in a private home to two of her fellow residents was not explained in the court decision and the woman does not appear to have been questioned during the hearing. A video "of poor quality" showing Toktoraliev and Belbayev's detention was added to the case materials, though the court decision does not explain who had filmed the detentions.

Bizarrely, the court decision claimed that by talking to the two young men about the Jehovah's Witness faith, Toktoraliev and Belbayev had "violated their right to freedom of conscience guaranteed in Kazakhstan's Constitution and the international Covenant".

The same judge at the same court on the same day also found Belbayev guilty under the same Article 375, Part 3, according to the court decision seen by Forum 18. He was similarly fined 100 MFIs. However, as a Kazakh citizen Belbayev could not be deported.

Toktoraliev's appeal was rejected on 12 December 2013 by Astana City Court, according to the decision seen by Forum 18. Belbayev's appeal had been rejected by the same court the day before.

Toktoraliev had lived for many years in Kazakhstan, Jehovah's Witnesses told Forum 18. His wife (also a Kyrgyz citizen) and two of their three children left Kazakhstan after the lower court decision "to avoid extra stress on the family if there were to be a hurried deportation". Toktoraliev himself left Kazakhstan following the rejection of his appeal, but without paying the fine, Jehovah's Witnesses told Forum 18.

### ***Another to be deported?***

Prosecutors have also gone to court to punish another Jehovah's Witness Yuri Toporov, who was based at the Jehovah's Witness national headquarters in Almaty. Toporov is a Russian citizen who has lived in Kazakhstan for more than ten years, Jehovah's Witnesses told Forum 18. His wife is a Kazakh citizen.

Toporov was accused of violating Administrative Code Article 375, Part 3. His case is due to be heard under Judge Akmaral Isabayeva at Almaty's Specialised Inter-District Administrative Court, but has been repeatedly postponed, most recently on 22 January. The case is now expected to be heard on 4 February.

### ***Banned from presenting book on Koran***

Imam Alyautdinov of Moscow's Memorial Mosque and a prolific author on Islamic themes has been barred from visiting Kazakhstan to present his new books and hold seminars since early 2013. A scheduled presentation of his book "The Holy Koran. Meanings" in an Astana bookshop on 17 February 2013 had to be abruptly cancelled two days before it was due to take place, Muslims familiar with the situation told Forum 18. Organisers had to offer refunds to those who had bought tickets.

Although as a Russian citizen Imam Alyautdinov does not need a visa to visit Kazakhstan, Agency of Religious Affairs officials in Astana made clear that any public appearances to promote his books without personal registration as a "missionary" would be illegal.

On 22 February 2013, his Kazakh colleagues then approached the Muslim Board (Muftiate), the only Islamic organisation the government has allowed to get registration since the harsh 2011 Religion Law. They asked that it formally request his registration as a missionary.

Despite several personal visits, his colleagues could get no reply. Finally, in a short written reply of 23 May 2013, seen by Forum 18, the Muslim Board's head of administration Gylymbek Mazhiyev responded that the Board "does not consider it necessary in the current year to invite Imam of the Moscow mosque Alyautdinov to Kazakhstan".

Alyautdinov's colleagues expressed frustration over the stalemate, pointing out that the government's Agency of Religious Affairs – which conducts the compulsory state censorship of all religious literature sold or imported into Kazakhstan – has approved many of the Imam's books.

An approval letter of 28 May 2013 from the ARA's then branch in Astana – seen by Forum 18 – includes "The Holy Koran. Meanings" among three books by the Imam and his brother that had successfully undergone ARA censorship.

Imam Alyautdinov visited Almaty in October 2013 to sign copies of his books, but was unable to hold any public events. His colleagues in Kazakhstan have had to organise a seminar with the Imam in late May 2014 in Antalya in Turkey, because of the stalemate over getting permission. "We would of course like to hold these seminars in Kazakhstan," one of his colleagues told Forum 18 from Almaty on 8 January.

In 2011, the ARA banned an earlier proposed visit by Imam Alyautdinov to present his new books in higher education institutions and bookshops. The ARA later claimed to have overturned the ban, but insisted his books would need to undergo the compulsory censorship (see F18News 21 October 2011 [http://www.forum18.org/Archive.php?article\\_id=1628](http://www.forum18.org/Archive.php?article_id=1628)).

### ***Foreign religious workers***

Several of Kazakhstan's religious communities rely on foreign citizens to provide religious personnel, particularly the Russian Orthodox, Catholic and Jewish communities. Of Kazakhstan's ten Russian Orthodox bishops, all but two or three are foreign citizens, an Orthodox Christian told Forum 18 from Almaty. Some priests are also foreign citizens, mostly from Russia or Moldova.

"Getting registration as foreign missionaries for them has not been too difficult," the Orthodox noted. "Although it is not a problem at present, it could become one in future."

The Orthodox added that when Russian Orthodox Patriarch Kirill visits Kazakhstan (as he did in May 2012), he does not need personal registration as a "missionary" to participate in public events because he is invited by the Church and by Kazakhstan's President Nursultan Nazarbayev.

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## **Kazakhstan: Criminal trial begins for 67-year-old pastor**

Forum 18 (22.01.2014) - Eight months after his arrest and despite his failing health, 67-year-old retired Presbyterian Pastor Bakhytzhan Kashkumbayev was brought from prison in handcuffs today (22 January) for the first hearing in his criminal trial in a court in Kazakhstan's capital Astana. He faces three charges of harming health, inciting hatred and leading an organisation that harms others, Forum 18 News Service notes. The charges carry a maximum penalty of eight, seven and six years' imprisonment respectively. He denies all wrongdoing.

Meanwhile, the criminal investigation of atheist writer Aleksandr Kharlamov in the town of Ridder in East Kazakhstan Region on charges of "inciting religious hatred" continues. Prosecutors have commissioned further "expert analyses" of his writings on religion extracted from his computer after it was confiscated from him in February 2013 (see below).

### ***Trial begins***

Retired pastor Kashkumbayev's trial is taking place under Judge Gulzhakhan Ubasheva at Astana's Almaty District Court No. 2. He is being represented by his lawyer, Nurlan Beisekeyev.

About 70 people were present in court to support retired pastor Kashkumbayev, among them foreign diplomats, one person present in Court today (22 January) told Forum 18.

Svetlana Glushkova, Astana correspondent of Radio Free Europe's Kazakh Service noted that Lyazzat Almenova – the main "victim" being presented by the prosecution – is being represented in court by her sister Guldana Almenova. Lyazzat Almenova has repeatedly told Forum 18 and others that she is not a victim and that she does not agree with her sister on this (see below).

The observer told Forum 18 that the Lawyer made several objections to the Court that the trial is "not fair", that Kashkumbayev is being kept in custody in "torturous conditions", and that he should have been operated on his ear already in November 2013 but the authorities did not allow this. The Court dismissed his objections.

The Court adjourned the trial until after 31 January, the deadline given to Lawyer Beisekeyev to study the case materials. Forum 18 could not reach the Lawyer on 22

January for comments. The observer said that Beisekeyev was not satisfied with time given for study of the case and told the Court that it was "too short".

When the 17 volumes of case materials were presented to retired pastor Kashkumbayev in late December 2013, he was forced to study them alone to prepare himself for the trial, Glushkova of Radio Free Europe noted on 2 January. Beisekeyev had been unavailable in hospital.

### ***Criminal charges***

Retired Pastor Kashkumbayev is facing serious charges under three Criminal Code articles, according to case documents seen by Forum 18:

- Article 103, Part 2, Point a punishes "Intentional inflicting of serious harm to health" in relation to "two or more persons". Punishment is between four and eight years' imprisonment.

The main person whose health the state claims has been harmed has strongly rejected the charge and has stated in writing to Astana Prosecutor's Office that Kashkumbayev is innocent (see below).

Article 164, Part 2 punishes "Deliberate actions aimed at the incitement of social, national, clan, racial, or religious hatred or antagonism, or at offence to the national honour and dignity, or religious feelings of citizens, as well as propaganda of exclusiveness, superiority, or inferiority of citizens based on their attitude towards religion, or their genetic or racial belonging, if these acts are committed publicly or with the use of the mass information media" when conducted "by a group of people or more than once, or when accompanied by violence or the threat of its use, or by a person using their official position or by a leader". Punishments range from a fine to imprisonment of up to seven years.

The alleged "religious extremism" is possession of two books entitled "Healing the Broken Family of Abraham" and "New Life for Muslims", his lawyer told Forum 18.

The Russian translation of "Healing the Broken Family of Abraham" by American Protestant Don McCurry is the only religious book known to have been banned as "extremist" in Kazakhstan. On 22 November 2012 Almaty's Almaty District Court No. 2 banned its publication, import and distribution in Kazakhstan. It found that the book contains "elements of incitement to religious hatred and discord."

Atheist writer Kharlamov is being investigated under Article 164 Part 1, which punishes the same actions committed by an individual in a personal capacity (see below).

- and Article 337, Part 1 punishes "creation or leadership of religious or social organisations whose activity involves violence against citizens or the causing of other harm to their health, or the incitement of citizens to refuse to carry out their civil obligations or to carry out other illegal activities, as well as the creation or leadership of parties on a religious basis or political parties and professional unions financed from sources banned by the laws of Kazakhstan". Punishments range from a fine to imprisonment of up to six years.

### ***Earlier defence arguments rejected***

On 10 January another judge at Astana's Almaty District Court No.2 rejected retired Pastor Kashkumbayev's suit to disqualify Judge Ubasheva of the same Court from hearing the trial, according to the decision seen by Forum 18. Under Article 90 of the Criminal Procedure Code she cannot do this as in 2012 she ordered the only person whose health the state claims was harmed to psychiatric examination, and thus became a

party to the case. A September 2012 "expert assessment" of church member Lyazzat Almenova claimed regular attendance at church had led her to develop "paranoid schizophrenia". She herself and Church members have vigorously rejected such claims.

The Court also rejected the defence's plea to release Kashkumbayev from custody as he is old and, Beisekeyev told Forum 18 on 21 January, "needs an urgent operation on his ears. One has become totally deaf, and the other one hears with great difficulty". Kashkumbayev also has chronic heart problems.

An assistant to Nurlan Aben, the head of Astana's Investigation Prison where retired pastor Kashkumbayev is being held, dismissed any concerns over his health. While admitting that the retired pastor is not well, the assistant – who did not give his name – insisted to Forum 18 on 3 January that "he is under medical supervision of our staff". "He will not die," the assistant added.

Retired Pastor Kashkumbayev's prison address is:  
Bakhytzhan Kashkumbayev  
SI-12 (ETs 166/1)  
Alash Tas Zhol street 30/1  
010000 Astana  
Kazakhstan

### ***"The family is being on purpose isolated from Kashkumbayev"***

Family members, including Kashkumbayev's wife Alfiya Kashkumbayeva, have seen Kashkumbayev only twice since 7 October 2013. On the second time, the 10 January 2014 hearing, family members and some international observers were expelled from the Court as defence arguments on the suitability of the Judge allegedly needed to be examined behind closed doors.

A person close to the family, who does not wish to be named for fear of state reprisals, and Kashkumbayev's lawyer Beisekeyev told Forum 18 that they do not think that the case is being tried fairly. "How can I believe that the authorities have good intentions? Kashkumbayev is old and in ill health, needs a medical operation, and is still kept behind bars", Beisekeyev observed. "The family is being on purpose isolated from Kashkumbayev to break him down", the family friend said.

### ***Long-standing state hostility***

Like atheist writer Kharlamov, retired Pastor Kashkumbayev has also been subjected to arrest, detention and forcible psychiatric examination. Despite facing criminal charges of allegedly harming a congregation member's health, the only person whose health the state claims was harmed told Forum 18 that Kashkumbayev is "totally innocent and has not harmed my health at all."

On 17 May 2013, Kashkumbayev was arrested and subsequently ordered to be held for pre-trial detention on unclear charges, apparently including praying and singing. While in pre-trial detention Kashkumbayev spent just over a month undergoing enforced psychiatric examination, from 5 August to 2 September, before being transferred back to pre-trial detention in Astana.

Just minutes after he was freed from Investigation Prison on 8 October 2013 to be transferred to house arrest, three police (or possibly KNB secret police) agents re-arrested Kashkumbayev on new criminal accusations of being an "extremist" or "terrorist". The police investigator Captain Vyacheslav Glazkov also forcibly – and illegally – deprived Kashkumbayev of his lawyer.



### ***Raids part of same case***

The authorities have long been seeking to punish the leaders of his Presbyterian Grace Church, but the reason or reasons for this remain unclear. Masked police searched the Church on 3 October 2012 and seized computers, valuables and religious books they insisted were "extremist" (though they could not explain what was "extremist" or who had declared them so).

As part of the same criminal case against retired Pastor Kashkumbayev, the same day prosecutors raided two other Protestant organisations in Astana. During the raid on the Bible League of Kazakhstan, they seized the computer belonging to its head, Igor Voronenko. During the raid on one of the city's Baptist churches, they seized copies of five books. Voronenko and Baptist pastor Gennadi Vrublevsky were accused of distributing "extremist" literature and on 7 December 2013 fined nearly four weeks' average wages each.

Nine days later the unrelated New Life Church in Oral (Uralsk) was raided in the same case.

### ***"Hallucinogens" smear***

Police requested church members to give blood specimens to see if the Church uses "hallucinogenic" substances for Communion. The alleged "hallucinogens" were a commonly drunk local red tea used as a non-alcoholic communion wine. Police questioning at that time ranged far beyond the alleged "harm" they were supposedly investigating.

After the October 2012 raids, detentions and confiscations, police told church members that a case had been opened on the complaint of a church member's mother on 21 July 2011 – almost 15 months earlier. The mother alleged that her daughter had suffered psychological harm after attending the church. Church members strongly denied these claims and noted that police displayed a curious lack of interest in the allegations they were supposedly investigating.

### ***Atheist writer still under criminal investigation***

The "extremism" criminal case against atheist writer Kharlamov continues. "I have to report to police, but I don't need to do this every day," he told Forum 18 from his home in Ridder on 21 January. He must remain in the town and "should behave properly in public". But, he observed, "the release agreement does not specify what 'proper behaviour' is".

### ***"Religious expert assessment"?***

On 15 October 2013 Captain Alikhat Turakpayev of Ridder Police, who leads the investigation, gave Kharlamov a scanned copy of yet another "religious expert assessment" of his writings, Kharlamov told Forum 18. This claimed that his "views of the Christian religion can incite hatred, and thus can be described as extremist".

Kharlamov said that he immediately filed complaints against the "expert assessment" to the regional Police and the Prosecutor's Office, and asked for the criminal case against him to be closed. He told Forum 18 that he also wrote in his complaint that the "expert" employed by the state is not independent and can only produce results which will suit the state.

East Kazakhstan Regional Prosecutor's Office has not responded. Kadyrbek Nurgaliyev, Deputy Head of East Kazakhstan Police, responded to Kharlamov on 13 January 2014 in

an official letter that "the case cannot be closed as it still is in the stage of judicial psychological expertise".

Captain Turakpayev refused to comment on the case. Asked by Forum 18 on 22 January why Kharlamov is being prosecuted for expressing criticism of religion, he replied that "I will not make any comments until the case is over". He refused to say when the case will be over, and whether there is any chance of Kharlamov being acquitted. Turakpayev then put the phone down.

Deputy Head of East Kazakhstan Police Nurgaliyev on 22 January claimed to Forum 18 the criminal case against Kharlamov was suspended until the end of the "religious expert assessment" of his works. He added that the 15 October 2013 "religious expert assessment" was "not final" and that there will be more "religious expert assessments". "Kharlamov should not worry, we are not intending to put him in prison," Nurgaliyev claimed to Forum 18. "We just want to complete the case." He said that he does not know when the case will be closed. "The investigation will decide that."

### ***"No-one suffered from what he wrote on religion"***

Like retired Pastor Kashkumbayev, atheist writer Kharlamov has also been subjected to arrest, detention and forcible psychiatric examination. He was freed from prison on 4 September 2013 after nearly six months' pre-trial detention, having been arrested on 14 March. During that time he was held for a month in a psychiatric hospital.

While being held in psychiatric hospital, Kharlamov was not allowed to wear glasses or even have toothbrushes, allegedly on grounds of safety. He was therefore unable to read anything or clean his teeth.

One doctor told Kharlamov that he had been sent to the psychiatric hospital "because you are an inconvenient person for the authorities". The criminal investigation against the 63-year-old continues under Criminal Code Article 164, Part 1 for allegedly "inciting religious hatred."

Despite the state's criminal charge and continued "expert examination" of Kharlamov's writings, the police investigator responsible for the case, Captain Turakpayev, admitted to Forum 18 in April 2013 that "no-one suffered from what he wrote on religion". But Turakpayev refused to explain on what, if any, medically-relevant evidence he ordered two psychiatric examinations of Kharlamov.

### ***Systemic violations***

The arrests, detentions and forcible psychiatric examinations of retired Pastor Kashkumbayev and atheist writer Kharlamov are part of a wider pattern of systemic Kazakh government violations of freedom of religion or belief and other human rights.

Two laws imposing severe restrictions on freedom of religion or belief and breaking the country's human rights obligations came into force in October 2011. A new Religion Law among other restrictions imposes a complex four-tier registration system, bans unregistered religious activity, and imposes compulsory state censorship of religious literature and objects. An expanded Administrative Code Article 375 ("Violation of the Religion Law") - replacing the previous Article 375 - was introduced at the same time in an Amending Law. It punishes a wide range of often unclearly defined "offences" with possible fines for individuals and groups with state-registration, and bans on the activity of "guilty" religious groups.

Since then, all mosques outside state control are being closed down. The imam and members of one of the independent mosques denied re-registration after intense state

pressure - who asked not to be identified - told Forum 18 that when they met to discuss applying for new registration, officials "came out of nowhere" and threatened them with punishment.

Two Baptists were imprisoned for 48 hours each from 9 January 2014 in the northern Akmola Region, for refusing to pay fines handed down in 2013 to punish them for exercising freedom of religion or belief without state permission. Numerous fines continue to be imposed under Administrative Code Article 375 for this "offence." In 2013 alone, more than 150 people are known to have been fined for exercising this internationally-recognised human right.

Among the many targets of state censorship of religious literature and objects, including bans on bookshops selling of such items without state permission, have been Russian Orthodox icons. After 12 icons and three Bibles were seized from a commercial bookseller in Oral (Uralsk) in West Kazakhstan Region, the bookseller is due to face an administrative court where he may be fined several weeks' average wages and the icons and Bibles might be ordered destroyed. "Everything is OK now - he has agreed not to sell religious materials," Salamat Zhumagulov, the state religious affairs official who seized the items, told Forum 18. Saktagan Sadvokasov, spokesperson for the state Agency of Religious Affairs claimed that "the Kazakh state must defend our citizens from harmful materials". Asked by Forum 18 whether he has known icons which are harmful, he replied that "we have experts to check icons."

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## **48-hour jail terms for refusing to pay "unjust" fines**

Forum 18 (14.01.2014) - Shoe-repairer Vyacheslav Cherkasov and plumber Zhasulan Alzhanov were each sentenced to 48-hour prison terms at evening court hearings in Kazakhstan's northern Akmola Region on 9 January, according to the court verdicts seen by Forum 18 News Service. The two Baptists were imprisoned for refusing to pay fines handed down in 2013 to punish them for exercising their right to freedom of religion or belief. The two were freed on Saturday evening, 11 January, Cherkasov told Forum 18 on 13 January. "We haven't lodged appeals," he added. "There's no point."

Cherkasov appeared to show no resentment over his prison term. "The Bible says that Christ was persecuted and we will be also."

The two were among more than 60 Council of Churches Baptists fined in Kazakhstan in 2013, all of whom refused to pay the fines as part of their civil disobedience. They insist that the state is wrong to punish them for meeting for worship and sharing their faith without the compulsory state permission.

"Not only are our Christian services interrupted, church members questioned at the police station, Christian books confiscated and large fines handed down, now our fellow church members are being arrested," Baptists lamented to Forum 18 on 10 January. They call the 2013 fines on Cherkasov and Alzhanov "unjust" and demand an end to state harassment of their communities.

Council of Churches Baptists reject state registration in all the former Soviet republics, including Kazakhstan. About half the more than 150 known administrative fines in Kazakhstan in 2013 to punish exercising the right to freedom of religion or belief fell on their members. Other victims include other Protestants, Muslims, Jehovah's Witnesses and commercial booksellers (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

Administrative punishments in 2013 have also included deportation for foreigners legally resident in Kazakhstan who have exercised their right to freedom of religion or belief. The most recent known victims have been Jehovah's Witnesses (see F18News 23 January 2014 [http://www.forum18.org/archive.php?article\\_id=1919](http://www.forum18.org/archive.php?article_id=1919)).

### ***Six similar 2013 cases***

Six individuals are known to have been brought to court in 2013 for refusing to pay fines handed down to punish them for exercising their right to freedom of religion or belief. All were punished under Code of Administrative Offences Article 524 ("Failure to carry out court decisions"). This carries a punishment on individuals of up to 10 Monthly Financial Indicators (MFIs) or up to 10 days' administrative arrest.

Four of the six were Council of Churches Baptists and two were Muslims. Four received small fines, but one received a 3-day jail term and the last a one-day jail term (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

### ***Punishment for earlier fines***

Cherkasov and Alzhanov had each been fined by Burabai Specialised Administrative Court under Article 375, Part 1. Article 375, Part 1 punishes "Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship".

Both fines were of 50 MFIs, 86,550 Tenge (3,500 Norwegian Kroner, 400 Euros or 560 US Dollars). Cherkasov's fine had been handed down on 5 March 2013, Alzhanov's on 9 August 2013. Both fines were upheld on appeal, but in Cherkasov's case the court-ordered destruction of religious literature – including Bibles – was overturned amid widespread public outrage (see F18News 10 April 2013 [http://www.forum18.org/archive.php?article\\_id=1822](http://www.forum18.org/archive.php?article_id=1822)).

Since the fines were handed down, both Cherkasov and Alzhanov were summoned repeatedly by bailiffs at the Burabai District Specialised Administrative Court because of their refusal to pay. Bailiffs threatened them with a new administrative case, Baptists told Forum 18. On the morning of 9 January 2014 they were again summoned and handed records of the opening of cases under Administrative Code Article 524.

"Unexpectedly", Baptists told Forum 18, Cherkasov and Alzhanov were summoned to court at 6 pm the same evening, 9 January. There, Judge Damir Shamuratov found them guilty in separate hearings and sentenced each to 48-hours' imprisonment in the district police holding cells. Both verdicts, seen by Forum 18, note that the two Baptists "categorically refuse" to pay the fines.

Cherkasov said he and Alzhanov were taken to different cells. Cherkasov was with about ten other prisoners in one cell. Asked about conditions there, he laughed grimly. "Not very good," he told Forum 18.

Forum 18 was unable to reach Judge Shamuratov on 13 and 14 January. An official at the court bailiffs' office in Burabai, who did not give his name, defended the further prosecutions to Forum 18 on 13 January.

### ***Why do police arrest, raid religious believers?***

Press officials of the Interior Ministry in the capital Astana appeared unable to explain why police – including officers of Departments for the Struggle Against Extremism – take

part in raids on meetings for worship and detain individuals talking about their faith with others on the street.

"Police never raid our citizens," Nurdilda Oraz, head of the Interior Ministry press service and spokesperson for the Interior Minister, claimed to Forum 18 from Astana on 14 January. "Police officers can only protect the rights of society and defend the interests of the people." Asked what people he had in mind, given that the overwhelming majority of those present at raided religious meetings and those arrested on the streets are Kazakh citizens, Oraz repeated his answer.

Asked about police raids on religious meetings – including a 13 October 2013 raid on a Baptist Sunday worship meeting in Taldykorgan near the commercial capital Almaty – Oraz said he did not have materials on this to hand.

### ***Second-oldest known 2013 fine victim***

Anatoly Lazarenko, a 79-year-old Council of Churches Baptist from West Kazakhstan Region, became the second-oldest known victim in 2013 of fines to punish individuals for exercising the right to freedom of religion or belief. He was fined 50 MFIs, 86,550 Tenge, on 28 November 2013 by Judge Aynur Kadyrova at Oral (Uralsk) Specialised Administrative Court under Administrative Code Article 374-1, Part 2.

Article 374-1, Part 2 punishes "Participation in the activity of an unregistered, halted, or banned religious community or social organisation".

The record for the oldest known victim of religiously-motivated fines in Kazakhstan in 2013 is held by fellow Baptist Yegor Prokopenko, who was 86 when fined in April 2013. Three other pensioners in their seventies in addition to Lazarenko are known to have been fined in 2013 (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

Six other church members in addition to Lazarenko were each fined 50 MFIs at Oral Specialised Administrative Court under Article 374-1, Part 2, according to the verdicts seen by Forum 18: Sergei Krasnov on 3 December 2013; Vladimir Nelepin and his younger brother Aleksandr Nelepin on 5 December 2013; Nikolai Novikov and Andrei Labinsky on 18 December 2013; and Vladimir Trifonov on 20 December.

Similar cases against church members Serkali Kumargaliev, Kenzhetai Baytinov and Ivan Isayev were rejected in separate hearings in December 2013 as they failed to turn up to the hearings and the judges insisted their presence was required.

The seven church members were fined after up to 16 police officers and journalists – led by the local religious affairs official – raided their church's meeting for Sunday worship on 10 November 2013 in Oral (see F18News 21 November 2013 [http://www.forum18.org/archive.php?article\\_id=1898](http://www.forum18.org/archive.php?article_id=1898)).

### ***Further punishment?***

On 21 November 2013, in a record seen by Forum 18, court bailiffs also brought a case against Novikov under Administrative Code Article 524 for refusing to pay one of the two fines handed down on him earlier in 2013. But his failure to attend successive hearings in December 2013 resulted in the case being returned to bailiffs.

Novikov was twice fined 50 MFIs by Akzhaik District Court in April and May 2013. Like other Council of Churches Baptists he refused to pay (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)). He was then added to the Justice Ministry list of citizens banned from leaving Kazakhstan.

Bailiff Yerkebulan Andakulov, who prepared the new case, defended the decision to bring Novikov to trial and the ban on him leaving Kazakhstan. "Novikov failed to fulfil a court decision," he told Forum 18 from Oral on 14 January. Asked why he should be punished for exercising his right to freedom of religion or belief, Andakulov responded: "That's not a question for me. I just carry out court orders." He declined to say if and when the new case will return to court.

### **Raid**

Meanwhile, police raids have continued on meetings for worship, often followed by fines. On 13 October 2013, about 10 police officers raided a Baptist Sunday worship meeting in Taldykorgan in Almaty Region, Council of Churches Baptists complained to Forum 18 on 27 December 2013. The raid was led by Andrei Sorokin, an officer of the Regional Police's Department for the Struggle with Extremism. Among the raiders was local police officer Captain Yerlan Turusbekov.

"After the meeting ended, officers selected several church members and took written statements from them," Baptists recounted. Yuri Rudenko, who had led the service, was summoned to the police on 21 October 2013 and told that a case had been launched against him under Administrative Code Article 374-1, Part 1.

Article 374-1, Part 1 punishes "Leading, participating in, or financing an unregistered, halted, or banned religious community or social organisation".

Captain Turusbekov defended the raid on the church meeting. "They did nothing wrong, but the law demands that they have registration," he insisted to Forum 18 from Taldykorgan on 14 January 2014. Asked why, given that Kazakhstan's Constitution guarantees freedom of religion or belief with no mention of compulsory state registration, Turusbekov repeated that the law demands it. He then declined to answer any other questions, saying he needed permission from his superiors.

Forum 18 was unable to reach Sorokin at the Department for the Struggle with Extremism.

### **Christmas Day fine follows raid**

Rudenko was brought to Taldykorgan Inter-District Specialised Administrative Court on 25 December 2013. Judge Zharas Arystanbekov found him guilty under Article 374-1, Part 1 and fined him 100 MFIs, 173,100 Tenge, according to the verdict seen by Forum 18.

"Officials knew 25 December was our festival of Christ's birth," Rudenko told Forum 18 from Taldykorgan on 14 January. "It was a normal working day, but we don't know if they specially chose it for the hearing." Church members came to the hearing to support him. The church celebrated Christmas that evening without disturbance from the authorities.

Saule Arzanbekova, head of Taldykorgan Akimat's Internal Policy Department, confirmed to Forum 18 on 13 January that she had attended the court hearing and confirmed that Rudenko's church has no state registration. However, she then claimed that she could hear none of Forum 18's other questions as to why the community needs state registration and why he should have been fined. Forum 18's end of the line was clear. When Forum 18 called back the line had been switched to a fax machine.

Rudenko lodged an appeal against the ruling. He told Forum 18 that Almaty Regional Court has not yet set a date to hear the appeal.

Local Baptists reject the fine as "unjust" and call for it to be overturned. They also call for the Church "to be able to praise God unobstructed".

### ***Sharing faith obstructed***

A group of Council of Churches Baptists were obstructed sharing their faith in the village of Komarovka on 15 August 2013, as they told Forum 18 on 11 January 2014. The village is in Kostanai Region of northern Kazakhstan a few kilometres (miles) from the border with Russia.

Baptists said that Galina Sarina, chief specialist of the village Akim (administration chief) demanded that they halt their meeting and threatened to call the police. They ignored her demands and completed their meeting.

Baptists say that on the way home by car, police followed them from the village. Some 40 kms (25 miles) away, police stopped them and ordered them to go to Denisovka District Police. Officers questioned one of the Baptists, Mikhail Milkin who is from Shchuchinsk in Akmola Region. They took several books from him before releasing him.

Sarina denies that she threatened the Baptists. "No-one threatened them – I simply told them they weren't allowed to hold a meeting," she told Forum 18 from Komarovka on 14 January 2014. "They must have registration to hold a religious meeting – that's the law." Asked why religious meetings need permission, she responded: "You need permission from the authorities - for any meeting."

Sarina insisted that she had not called the police, but declined to say who had. "I told my bosses – that's all I did."

### ***Fine***

Back at home in Shchuchinsk 700 kms (450 miles) away, Milkin received a summons to Denisovka Prosecutor's Office on 9 November 2013. Because of the distance he did not go, Baptists told Forum 18. About a week later he was informed a case had been launched against him under Administrative Code Article 375, Part 1.

On 9 December 2013, Judge Vladimir Leleka of Denisovka District Court found Milkin guilty in his absence under Article 375, Part 1 and fined him 50 MFIs, 86,550 Tenge, according to the verdict seen by Forum 18.

Strangely, the verdict describes Milkin as spreading the Jehovah's Witness faith. However, Judge Leleka seemed unconcerned. "Materials in the case, which weren't cited in court, belonged to Jehovah's Witnesses," he told Forum 18 on 14 January. "But if I committed a mistake the Regional Court will correct it."

Judge Leleka declined to discuss whether it was right or wrong that individuals are punished for exercising their right to freedom of religion or belief. "I'm governed by the law," he insisted.

### ***Appeal***

Milkin appealed against the decision, explaining that he was unable to attend the December 2013 hearing for family reasons and protesting his innocence of any wrongdoing. He pointed out that Article 20 of Kazakhstan's Constitution guarantees that "Everyone has the right freely to receive and distribute information by any means not banned by law." "So it is my right as a citizen of Kazakhstan to use any of many possibilities not banned by law to give out literature," he told the Regional Court.

Milkin also complained that the verdict inaccurately claimed that he had "spread the Jehovah's Witness teachings and distributed religious literature of this faith to villagers". He insisted he had never belonged to that community and had never distributed its literature.

Kostanai Regional Court is due to hear Milkin's appeal on 15 January, the court website notes.

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## **"We have experts to check icons"**

Forum 18 (08.01.2014) - The owner of a bookshop in Oral (Uralsk) in West Kazakhstan Region is facing an administrative case after he was discovered during "verification measures" to be selling icons and Bibles without the required state licence, Forum 18 News Service has learned. "Everything is OK now - he has agreed not to sell religious materials," Salamat Zhumagulov, the state religious affairs official who seized the items from him in October 2013, told Forum 18 from Oral. The bookseller, Aleksandr Surkov, is likely to be fined. The 12 icons and three Bibles have not been returned.

Saktagan Sadvokasov, spokesperson for the government's Agency of Religious Affairs (ARA) in the capital Astana, defended the seizure of the icons and Bibles. "These can only be sold with a licence," he told Forum 18 on 6 January.

Asked why selling religious materials requires a state licence under Kazakhstan's harsh state-imposed religious censorship system, Sadvokasov insisted: "The Kazakh state must defend our citizens from harmful materials. Religious materials need to be checked." Asked whether he has ever encountered icons which are harmful, he responded: "We have experts to check icons."

An employee of Surkov's shop confirmed that as of 3 January the confiscated Bibles and icons have not been returned. "We can't sell such things now," the employee lamented to Forum 18.

### ***Confiscations, destructions***

Selling or distributing religious literature and materials without a state licence is illegal under Article 5, Part 4 of the harsh 2011 Religion Law (see F18News 23 September 2011 [http://www.forum18.org/Archive.php?article\\_id=1617](http://www.forum18.org/Archive.php?article_id=1617)). New procedures for issuing licences are now being prepared (see below).

Courts frequently fine commercial booksellers and individuals for distributing religious literature outside approved venues (state-registered places of worship and state-licensed shops). Forum 18 knows of 10 named commercial booksellers and traders given administrative fines in 2013 (one was fined twice) for selling religious books without a licence, with official announcements of unnamed others whom Forum 18 has been unable to identify (see F18News 11 November 2013 [http://www.forum18.org/archive.php?article\\_id=1895](http://www.forum18.org/archive.php?article_id=1895)).

Fines were handed down under Administrative Code Article 375, Part 1 ("Violation of the demands established in law for the conducting of religious rites, ceremonies and/or meetings; carrying out of charitable activity; the import, production, publication and/or distribution of religious literature and other materials of religious content (designation) and objects of religious significance; and building of places of worship and changing the designation of buildings into places of worship").



Fines on individuals are of 50 Monthly Financial Indicators (MFIs), on people in an official capacity (which includes businesspeople) of 100 MFIs and on legal entities of 200 MFIs with halting of their activity for three months. Fines are increased under Article 375, Part 9 for repeat offences within one year. A fine of 50 MFIs represents nearly four weeks' average wage, according to the government's Statistics Agency.

In three administrative cases in 2013 known to Forum 18, courts also ordered confiscated religious books (including Bibles) to be destroyed, although in one of the cases the destruction order was overturned after widespread public outrage (see F18News 15 November 2013 [http://www.forum18.org/archive.php?article\\_id=1896](http://www.forum18.org/archive.php?article_id=1896)).

The ARA has also obstructed the presentation of religious books by at least one foreign author. In February 2013, a Muslim bookshop in Astana had to cancel at the last minute the presentation of a new book by prolific author Shamil Alyautdinov, Imam of Moscow's Memorial Mosque. Religious affairs officials insisted that for the imam to speak publicly he needed an invitation from Kazakhstan's only legal Muslim religious organisation, the Muftiate, and personal registration as a "missionary" (see F18News 23 January 2014 [http://www.forum18.org/archive.php?article\\_id=1919](http://www.forum18.org/archive.php?article_id=1919)).

Courts have also controversially banned some religious works as "extremist" and fined those who have owned copies of them, whether or not they have distributed them (see F18News 6 January 2014 [http://www.forum18.org/archive.php?article\\_id=1912](http://www.forum18.org/archive.php?article_id=1912)).

### **Raid**

Two officials of the Religious Affairs Department of West Kazakhstan Regional Akimat (administration), accompanied by two official witnesses, raided a shop in the Theatre shopping centre in Oral on 9 October 2013 as part of "verification measures of commercial venues selling books" to make sure religious books and other materials were not being sold by shops which do not have the compulsory state licence.

Zhumagulov – accompanied by his colleague Sayalbek Gizzatov – seized one Children's Bible, one illustrated Bible, one book of Bible sermons and 12 icons, according to the official record of an administrative offence seen by Forum 18. Surkov, the shop owner, admitted that he had been selling the items without a licence. He was accused of violating Administrative Code Article 375.

However, on 20 November 2013, Judge Roza Sariyeva of Oral's Specialised Administrative Court sent back the case for further investigation because Religious Affairs Department officials had not specified which Part of Article 375 Surkov should be prosecuted under, according to the decision seen by Forum 18. "The given Article consists of nine Parts," it notes.

Religious affairs official Zhumagulov says the documents are now being corrected and the case will be sent back to court. "It will be up to the court to decide if he is guilty," he told Forum 18 from Oral on 6 January. He rejected suggestions that he had confiscated the icons and Bibles. "It wasn't confiscation – only a court can confiscate items." He insisted they are merely being held as "case materials". He said the court will decide what will happen to them. He refused to discuss whether or not the court will order them to be destroyed.

Zhumagulov vigorously defended the seizure of the books and icons. "I am merely fulfilling the Religion Law," he told Forum 18. Asked how a ban on commercial selling of religious materials can be in line with Kazakhstan's international human rights obligations, Zhumagulov repeated that he was carrying out the law.

### ***Who are official witnesses?***

The two named individuals recorded as being the two required official witnesses for the October 2013 raid were a man and a woman, both in their twenties and living at separate addresses in the city. Zhumagulov refused to tell Forum 18 how they were chosen.

Forum 18 reached both of the witnesses on 8 January, but neither would say how they had been chosen. One simply put the phone down. The other laughed before putting the phone down.

### ***Bookshop licence rejection challenge fails***

Meanwhile, Astana-based shop owner Pyotr Volkov has failed in his legal challenge to have the refusal of a state licence to sell religious materials declared unlawful. He took various state agencies involved in the rejection – the Agency of Religious Affairs, Astana City's Religious Affairs Department and other city Akimat branches – to court.

However, on 5 December 2013 Judge Zhanna Li of Astana's Inter-District Specialised Economic Court rejected his suit, according to the decision seen by Forum 18. The court ruled that as no official standard for issuing such licences had been laid down at the time Volkov lodged his suit, no complaints against the procedure could be made.

On 25 December 2013, Volkov's appeal against this latest ruling reached Astana City Court. "The court told us they are waiting for documents from government agencies," Volkov told Forum 18 from Astana on 8 January 2014. "They say the hearing will be not before 18 January."

Volkov added that he had received several letters from the City Prosecutor's Office and Kazakhstan's General Prosecutor's Office asserting that all official actions had been in accordance with the law.

### ***"Anti-extremism" raid***

Volkov is the owner of the Path to Oneself "esoteric" shop in Astana. The shop stocks Indian spices, incense and ornaments, as well as a range of literature on Feng Shui and "biospheres". Among other items it has stocked are Koran reading stands and digital Koran-reading pens. He has been trying to gain a religious bookshop licence since February 2012, in vain.

In May 2013, police conducting an "anti-extremism" operation raided Volkov's shop. They seized 48 books – including works on Daoism, Confucianism and mysticism - which the city's Religious Affairs Department later decided were religious. In September 2013 he was fined 50 MFIs under Administrative Code Article 375, Part 1, as he did not have the necessary licence to sell religious materials. He lost his appeal against the fine the following month (see F18News 4 November 2013 [http://www.forum18.org/archive.php?article\\_id=1892](http://www.forum18.org/archive.php?article_id=1892)).

### ***"They keep saying 'tomorrow'"***

An official of Astana's Religious Affairs Department, who did not give her name, told Forum 18 on 6 January that Adiya Romanova – the official who represented the Department at court hearings – was on leave. But the official insisted that neither Volkov nor any other book sellers can be given such licences until the new procedure has been approved. Asked why Volkov should be banned from selling religious materials and fined if he does so, the official repeatedly pointed to the 2011 Religion Law. "We have spoken to Volkov about this." She then put the phone down.

Volkov's son Viktor, who works in the shop, said officials are now saying they will issue a bookshop licence by the end of January. "Officials keep saying 'tomorrow', 'tomorrow'," he told Forum 18.

Meanwhile, the Volkovs have had to remove about half the books they had on sale in their shop. "Officials lump together both religious and non-religious books, such as books on mysticism," Viktor Volkov lamented. "We have had to remove all such books."

### ***No approved standard***

The state agency authorised to issue the compulsory religious book-selling licences has repeatedly been changed since the 2011 Religion Law introduced such licences.

The ARA is now responsible for preparing an official standard – a publicly-announced procedure – for issuing licences. On 1 October 2013 the ARA published a draft standard on its website, with a consultation time of one month. Article 11 specifies the documents needed to be presented to apply for the free licences, including a completed application form.

Article 11, Part 3 requires applicants to present documents proving that they own the business premises where they would like to sell religious books and items or, if they rent business premises, their rental agreement and the original of a document signed by the owner of the premises that they approve the distribution of religious books and items on their property.

ARA officials told Forum 18 that the standard is still being completed and needs to be approved by the Government before it can take effect.

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## **Fines for "extremist" books**

Forum 18 (06.01.2014) - Two Protestants in Kazakhstan's capital Astana were fined nearly four weeks' average wages in December 2013 for possessing Christian texts which the court found to be "extremist", according to court documents seen by Forum 18 News Service. One of the books had been banned as "extremist" one month after it was seized from one of those fined. However, Forum 18 can find no court decision banning any of the other texts as "extremist".

An Astana court is due to rule on 13 January whether a text by Salafi Muslim Mohammed ibn Abdul-Wahhab is "extremist" and should be banned (see below).

Protestants have repeatedly rejected to Forum 18 accusations by state bodies that works confiscated from them are "extremist" and deserve to be banned.

### ***Unannounced hearings***

Because court hearings to rule whether materials are "extremist" take place unannounced and because no published list of banned books appears to exist, people in Kazakhstan remain unaware of what has and has not been banned.

The unannounced nature of court hearings also makes it impossible for book publishers, distributors, readers or free speech advocates to challenge court-ordered bans.

The government's Agency of Religious Affairs (ARA) – which is often represented in "extremism" court hearings – does not publish on its website a list of religious books banned by the courts as "extremist". Forum 18 has repeatedly asked the ARA for such a

list, most recently on 6 January, but has not received a copy. Saktagan Sadvokasov, the ARA spokesperson, refused to tell Forum 18 that day where people can get a copy of the list. He insisted that such bans were imposed by the courts, not by his Agency.

### ***Bans and "bans"***

Kazakhstan has three levels of banned religious literature: items banned by courts as "extremist"; items which the ARA has refused to approve for publication, import and distribution; and items which it has not given a response on or has not considered. Even senior ARA officials appear confused about how the censorship system operates.

Courts have included some religious publications in the numerous materials they have banned as "extremist". Once a work has been banned, those distributing it risk prosecution under Criminal Code Article 164, Part 1, or Code of Administrative Offences Article 344, Part 4.

However, under Kazakhstan's strict system of state-imposed religious censorship, all religious books are in any case illegal unless the ARA has declared them as legal. Some titles (but not all) which have successfully passed the ARA censorship are then included on the ARA website as having been approved for publication and distribution. However, distribution can only take place in approved venues (registered places of worship and state-licensed shops).

The Astana fines came as Bibles and 12 icons seized by officials from a shop in the city of Oral (Uralsk) in October 2013 have still not been returned three months later. The shop owner is to be brought to court for selling religious materials without the required state licence.

### ***Raids and literature seizures***

Prosecutors raided two Protestant organisations in Astana in October 2012. During the raid on the Bible League of Kazakhstan, they seized the computer belonging to its head, Igor Voronenko. During the raid on one of the city's Baptist churches, they seized copies of five books, according to separate court decisions seen by Forum 18.

Both raids were part of the same criminal case against retired Presbyterian Pastor Bakhytzhon Kashkumbayev. Under arrest since 17 May 2013, the 67-year-old pastor remains in the medical unit of Astana's Investigation Prison. The criminal case against him appears to have been completed and he is likely to face trial soon. A charge of distributing "extremist" materials appears to be part of the charges.

Following the October 2012 raids, both Voronenko and Baptist pastor Gennadi Vrublevsky were accused of distributing "extremist" literature. Prosecutors deemed that their actions should not be subject to Criminal Code Article 164, Part 1. This punishes "inciting religious hatred", among other offences, with a fine or a prison term of up to seven years.

Prosecutors instead brought cases against Voronenko and Pastor Vrublevsky under Administrative Code Article 344, Part 4. This punishes "production, storage, import, transport and distribution" of non-media publications containing "propaganda or agitation for a violent change to the constitutional order, violation of Kazakhstan's territorial integrity, subversion of state security, war or the incitement of social, racial, ethnic, religious, class or clan discord, the cult of brutality, violence and pornography" with fines of 50 to 200 Monthly Financial Indicators (MFIs).

At separate hearings on 7 December 2013, Judge Beibit Nurzhan of Astana's Specialised Inter-District Administrative Court found them guilty and fined each 50 MFIs, 86,550 Tenge (3,500 Norwegian Kroner, 400 Euros or 550 US Dollars). This represents nearly

four weeks' average wage for each, according to the government's Statistics Agency. Voronenko and Pastor Vrublevsky both admitted that they had the specified literature, according to the court decisions.

Voronenko and Pastor Vrublevsky chose not to appeal against the judgments and reluctantly paid the fines in the hope that they can avoid further pressure from the state, Protestants who asked not to be identified for fear of state reprisals told Forum 18 from Astana.

### ***"Signs of ethnic and religious hatred"?***

Voronenko was accused of having in his computer two "extremist" Russian-language works: "Conversation with Muslims about Christ 1, 2, 4, 5, 6, 7, and 8", and "How to Talk to Muslims about the Gospels". Prosecutors insisted that an "expert analysis" No. 756 of 18 March 2013 had found that these works "contain signs of ethnic and religious hatred and enmity and statements on the superiority of the Christian religion and the inferiority of the Islamic religion".

The 12-page "expert analysis" (seen by Forum 18) was prepared by Berik Manakhayev of the Astana Judicial Expert Analysis Centre under the Justice Ministry and university lecturer Tatyana Lipina. Both "experts" have completed religious studies courses.

Voronenko told the court he did not know that these texts had been banned and that having them in his computer was illegal. The court ordered that in addition to his fine, his computer should be reformatted to remove all material on it before it is returned to him.

Pastor Vrublevsky was accused of possessing five "extremist" books, four in Russian and one in Kazakh: "Healing the Broken Family of Abraham" by American Protestant Don McCurry and "Israel and the Kingdom of Islam" by the late German Protestant Ernst Schrupp, as well as "The Call for the Great Commission", "Islam and Occultism" and "Questions which Demand an Answer".

The court decision said "expert analysis" No. 5225 of 27 September 2013 (replicating the comments in the 18 March 2013 analysis) had found that the books "contain signs of ethnic and religious hatred and enmity and statements on the superiority of the Christian religion and the inferiority of the Islamic religion". It does not reveal who wrote the "expert analysis".

The freedom to make claims about the relative merits or demerits of religious or non-religious views is a central part of freedom of religion or belief.

The court decision says that the Baptist congregation's books are to be confiscated, but does not reveal what should then happen to them. In three administrative cases in 2013 known to Forum 18, courts ordered confiscated religious books (including Bibles) to be destroyed, although in one of the cases the destruction order was overturned after widespread public outrage (see F18News 15 November 2013 [http://www.forum18.org/archive.php?article\\_id=1896](http://www.forum18.org/archive.php?article_id=1896)).

### ***Seized before court-ordered ban***

The Russian translation of "Healing the Broken Family of Abraham" is the only religious book known to have been banned as "extremist" in Kazakhstan. On 22 November 2012 Almaty's Almaly District Court No. 2 banned its publication, import and distribution in Kazakhstan. It found that the book contains "elements of incitement to religious hatred and discord" (see F18News 9 October 2013 [http://www.forum18.org/archive.php?article\\_id=1885](http://www.forum18.org/archive.php?article_id=1885)).

It remains unclear why Pastor Vrublevsky was punished for having McCurry's book, as it was not banned by a court until a month after the book was seized from him in the raid. The "expert analyses" have not been published and, to Forum 18's knowledge, none of the other texts have been banned as "extremist" by a court.

The cases against Voronenko and Pastor Vrublevsky were prepared by Astana's Almaty District Prosecutor's Office official Gaukhar Saparbayeva. Despite repeated calls, Forum 18 was unable to reach her on 6 January. One of her colleagues said she has temporarily been assigned to the city Prosecutor's Office. Messages sent to her went unanswered.

Judge Nurzhan refused to respond to any questions on the cases. "I have no right to answer any questions by telephone," he told Forum 18 from Astana on 6 January and put the phone down.

### ***Investigations***

Other religious writings are being investigated for possible banning as "extremist". On 28 December 2013, Judge Maiya Galiyeva of Astana's Saryarka District Court set 13 January 2014 for the hearing to determine whether a Russian translation of the work "Explanation of the Three Fundamental Principles of Islam" is "extremist", according to court documents seen by Forum 18. The book – at least part of which was written by the Salafi Muslim Mohammed ibn Abdul-Wahhab, who helped found a precursor to the present-day kingdom of Saudi Arabia – is 543 pages and was published in Cairo in 2008.

Invited to the hearing of the suit – brought by Akmola Transport Prosecutor's Office – are the National Security Committee secret police, the Interior Ministry, the Justice Ministry, the Transport Ministry and the Agency of Religious Affairs. Also invited is Aidos Akhmetov, a resident of Astana. Forum 18 has been unable to find out whether he is the owner of a copy seized by prosecutors or has some other involvement in the case.

The telephones of the Transport Prosecutor's Office went unanswered each time Forum 18 called on 6 January.

### ***Websites banned***

Courts have also banned many websites and webpages as "extremist". Two webpages by Christians making often trenchant criticisms of Islam, as well as an article by a Muslim criticising democracy, have also been banned as "extremist" (see F18News 15 November 2013 [http://www.forum18.org/archive.php?article\\_id=1896](http://www.forum18.org/archive.php?article_id=1896)).

However, not all attempts to ban religious publications succeed, Forum 18 notes. Astana's Prosecutor tried to ban as "extremist" a Kazakh translation of the Turkish book "The Religion of Islam" by Osman Karabiyik. Two "expert analyses" it ordered – of 11 July 2011 and 20 March 2012 – found "signs of extremism" in this and another work. A 21 December 2012 "expert analysis", by contrast, failed to find any "extremism".

On 25 December 2012, Judge Miras Satybaldin of Astana's Saryarka District Court rejected the Prosecutor's Suit. The Prosecutor appealed against the decision. At a 13 June 2013 hearing at Astana Appeal Court, the original rejection of the suit was upheld, according to the decision seen by Forum 18. Unusually for such banning hearings, the publisher – Turkestan Cultural Fund – was represented (their representative was also the book's translator).

At both hearings, "specialists" from the Agency of Religious Affairs insisted that the books did not contain incitement to hatred on grounds of religion, social origin or ethnicity. Ainur Abdirasilkyzy, head of the Agency's Religious "Expert" Analysis Department, told the appeal hearing that the Agency had commissioned its own "expert analysis" of "The

Religion of Islam" to check that it did not incite "inter-religious enmity".

Abdirasilkyzy explained to the court that it is the role of her Department to check religious literature. "When signs of extremism are discovered, materials are sent to the National Security Committee and Interior Ministry for the adoption of appropriate measures to ban the given materials," she told the court.

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