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KAZAKHSTAN: "State prosecutor wants Yklas to serve 7 years in prison!"

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

State Prosecutor Asylzhan Gabdykaparov is seeking to have Protestant Christian Yklas Kabduakasov's punishment of seven years' restricted freedom turned into an actual seven-year prison sentence, Seventh-day Adventist Pastor Andrei Teteryuk told Forum 18 News Service. The Prosecutor's protest – and Kabduakasov's appeal to have the sentence quashed – are due to be heard on 22 December at Astana City Court. The November verdict ordered that nine Christian books seized by the secret police in the case should be destroyed. "It is barbarism to destroy books," human rights defender Yevgeni Zhovtis told Forum 18. An Astana-based court bailiff - who has witnessed the destruction of religious books - explained to Forum 18 that bailiffs throw books ordered destroyed – including religious books – into the rubbish bin. "They are normally disposed off at a general rubbish dump outside the city."

The City Court in Kazakhstan's capital Astana is due to hear the appeal in the case of Protestant Christian Yklas Kabduakasov in the morning of 22 December, according to case documents seen by Forum 18 News Service. Judge Gulnara Mergenova is due to preside. Both the state prosecutor and Kabduakasov himself have appealed against the sentence of seven years' restricted freedom handed down on 9 November to punish him for talking to others of his faith. "The state prosecutor wants Yklas to serve the seven years in prison!" Astana Seventh-day Adventist Pastor Andrei Teteryuk told Forum 18 on 4 December.

Despite repeated calls, Forum 18 was unable to reach state prosecutor Asylzhan Gabdykaparov to find out why he is seeking to have Kabduakasov imprisoned. His colleagues either told Forum 18 he was out of the office or his telephone went unanswered between 2 and 8 December.

Although Gabdykaparov led the prosecution case in court, the National Security Committee (KNB) secret police spent more than a year preparing the prosecution.

The written verdict sentencing Kabduakasov orders that nine religious books seized in raids on his home and other locations – among other items - should be destroyed (see below).

The court order to destroy yet more religious books comes as Jehovah's Witnesses have failed to overturn in court repeated religious censorship on the import of their publications. Courts confined themselves to technical points, refusing to consider whether the Culture and Sport Ministry's Religious Affairs Committee had been right to ban specific Jehovah's Witness publications or not (see below).

Fines continue on individuals who offer religious literature outside the limited spaces enshrined in law where it is allowed to be distributed (see below).

"It is barbarism to destroy books"

Yevgeni Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law condemned the court order to destroy books seized from Kabduakasov and others in the case. "It is barbarism to destroy books," he told Forum 18 on 3 December. "And it makes the authorities in Kazakhstan - who position themselves as modernising the country - look from the cultural point of view like the Taliban or ISIS."

Zhovtis noted that he had similarly objected over the court-ordered destruction of 121 religious books, mainly Bibles, in Akmola Region in March 2013. After an outcry, that decision was then overturned (see F18News 10 April 2013 http://www.forum18.org/archive.php?article_id=1822).

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 was carried out in Kazakhstan.

Other religious literature destruction orders followed (see F18News 15 November 2013 http://www.forum18.org/archive.php?article_id=1896).

"We will fulfil court orders to destroy books"

An Astana-based court bailiff – whose role falls under the jurisdiction of the Justice Ministry – explained to Forum 18 in late November 2015 how he and his colleagues destroy items as ordered in court decisions. Asked if this includes the destruction of books, the bailiff responded: "Whatever the court orders, we will do it - we will fulfil court orders to destroy books."

The bailiff noted that courts often order the destruction of seized alcohol and books. Asked what bailiffs do to destroy books, including religious books, the bailiff responded: "Generally we throw them into the bin. They are normally disposed off at a general rubbish dump outside the city." By contrast, bailiffs hand confiscated weapons or gold to the police.

Asked if the bailiff had personally destroyed religious books, the bailiff responded: "There are cases of destruction of religious books, though not so many. I haven't done it, but I've seen others do it, of course." The bailiff said they had not come across cases where other bailiffs had refused to destroy religious books on grounds of conscience.

Judge orders religious book destruction

The KNB secret police had been tracking Adventist Kabduakasov for a year as he spoke to others about his faith. The KNB appear to have rented the flat to which four students invited him for religious discussions, appear to have organised the secret filming of the meetings with at least two hidden cameras, and prepared the prosecution case.

The KNB secret police finally arrested Kabduakasov in Astana on 14 August, accused of violating Criminal Code Article 174, Part 2. This punishes "incitement of social, national, clan, racial, or religious discord" by repeat "offenders" with prison terms of between five and ten years. On 9 November at the end of his trial, Kabduakasov was sentenced to seven years' restricted freedom under Article 174, Part 1 (see F18News 9 November 2015 http://www.forum18.org/archive.php?article_id=2119).

Judge Akmaral Isayeva's written court decision – handed down some days after the verdict was pronounced in court and seen by Forum 18 – orders Kabduakasov to pay 149,742.52 Tenge (17,000 Norwegian Kroner, 1,800 Euros or 2,000 US Dollars) for the "expert analysis" used to convict him (see F18News 10 June 2016 http://www.forum18.org/archive.php?article_id=2187).

The verdict also reveals that nine religious books held by Astana KNB after they seized them in August are to be destroyed. Also ordered destroyed were audio and video cassettes, CDs and computer technology, including computers and a video camera. The KNB secret police had seized the items from Kabduakasov's home, place of work and car, and other addresses.

Forum 18 was unable to reach Judge Isayeva to find out why she had ordered the religious books destroyed. On 24 November her assistant said he could not comment on her behalf. On all other occasions, the Judge's telephone went unanswered.

"We consider the destruction order absurd"

The books Judge Isayeva ordered destroyed were "Worthy Answers" (2 copies) and "Central Asia, Kazakhstan and the History of Christianity" in Kazakh, as well as "Worthy Answers", "The Call for the Great Commission" (2 copies), "Relatives, live in abundance!" and "Share your Faith with Muslims" (2 copies) in Russian.

None of these books is among the 661 items on the General Prosecutor's Office list of banned religious literature published on its website. (Adolf Hitler's "Mein Kampf" is among the "religious" books listed as "extremist" and banned.)

"We consider the destruction order absurd," Adventist Pastor Teteryuk complained to Forum 18. "The books and other items don't belong to Yklas but to the Church and other Church members! We don't understand why they're preparing to destroy them."

Growing number of religious books and websites banned

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.

"The Call for the Great Commission" was one of five Christian books which a September 2013 "expert analysis" claimed "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". An Astana court fined Baptist pastor Gennadi Vrublevsky in December 2013 for possessing the five books (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005).

Although Police and KNB secret police officers have often hunted down and seized copies of "Worthy Answers" - by two local

Protestants, Galymzhan Tanatgan and Zhomart Temir – Forum 18 can find no record that it has been banned (see F18News 9 October 2013 http://www.forum18.org/archive.php?article_id=1885).

Judge Isayeva's verdict notes that a 1 September six-page "expert" analysis concluded that "Worthy Answers" promotes "religious hatred and discord". The analysis has not been made public.

Ever more religious censorship

In defiance of Kazakhstan's international human rights commitments – and against the country's Constitution, which bans censorship – the Religion Law requires all religious literature printed, published or distributed in the country to undergo prior compulsory censorship at the Culture and Sport Ministry's Religious Affairs Committee (see Forum 18's Kazakhstan religious freedom survey http://www.forum18.org/archive.php?article_id=1939).

An official of the "Expert" Analysis Department of the Religious Affairs Committee insisted that her department does not ban religious literature. "We just give recommendations of items to ban, but prosecutors and courts take the decisions," Aseil Kuzembayeva told Forum 18 from Astana on 3 December. "As of today, we have given more than 400 negative evaluations." However, she said she was unable to send a list of the religious items for which her Committee has given a "negative evaluation".

Kuzembayeva insisted that just because her Department has given a "negative evaluation" of a religious book, it does not mean the book should be destroyed. She rejected characterisations of the Department's work as censorship, but was unable to say how it differed from censorship. "Items are only blocked if they violate the law," she claimed.

Kuzembayeva has produced several analyses of Jehovah's Witness literature, claiming that they contain "elements inciting religious hatred and discord". Her analyses were then used in court to ban the magazines and books (see F18News 10 October 2014 http://www.forum18.org/archive.php?article_id=2005).

Challenges to religious literature bans fail, further bans

On 2 December, a panel of three judges at Astana City Court rejected the Jehovah's Witnesses cassation appeal against the Religious Affairs Committee ban in late 2014 on the import of 13 items, including issues of their magazine "The Watchtower", as well as copies of "Examining the Scriptures Daily 2015", a book Jehovah's Witnesses use regularly. The blocked items were in Kazakh and Russian. Kuzembayeva represented the Religious Affairs Committee in court, according to the decision seen by Forum 18.

The case had already been through lower courts. As in numerous earlier rejections of Jehovah's Witness suits challenging religious censorship, the courts did not evaluate whether or not the Religious Affairs Committee's findings of alleged promotion of religious discord were justified or not. Jehovah's Witnesses can lodge a final challenge to the Supreme Court.

"In the 13 publications that the Religious Affairs Committee banned from import between September and November 2014," Jehovah's Witnesses told Forum 18, "virtually all of the passages to which it objected are either direct quotations from the Bible or the Witnesses' sincere explanation of what they understand these quotations to mean."

On 20 and 25 August 2015, the Religious Affairs Committee denied Jehovah's Witnesses permission to import three more of their publications: "What Does the Bible Really Teach?", "Keep Yourselves in God's Love" and "Good News From God!", one of Kuzembayeva's colleagues – who would not give his name – confirmed to Forum 18 on 3 December. He refused to say if he could send Forum 18 copies of his Department's negative "expert analysis".

Jehovah's Witnesses note that the Religious Affairs Committee's August bans were the first on their publications since late 2014.

Jehovah's Witnesses appealed against the latest denials to the Culture Ministry, but without success, they told Forum 18. As in earlier censorship cases, they also tried to challenge these bans in court. However, in two separate cases on 30 November, Astana Inter-District Economic Court sent the cases back on technical grounds, according to the decisions seen by Forum 18. Jehovah's Witnesses are likely to resubmit them.

On 27 March, Jehovah's Witnesses filed an appeal to the United Nations Human Rights Committee over censorship bans of ten of their publications in January 2013. Challenges to these bans had failed in Kazakhstan's courts.

Fined for not paying fines

On 9 November, Judge Sayat Orazbayev of Balkhash Specialised Administrative Court in Karaganda Region punished Council of Churches Baptist Nikolai Popov for failing to pay two fines handed down in 2013 and 2014 to punish him for exercising the right to freedom of religion or belief, according to the decision seen by Forum 18. Popov was fined 10 Monthly Financial Indicators (MFIs), 19,820 Tenge, under Administrative Code Article 669 (failure to fulfil a court sentence or decision, other judicial act or bailiff's order).

The 54-year-old Popov is married with five children, ranging from 11 to 19. He told the court that he refused to admit his guilt for "sharing God's Word", according to the transcript seen by Forum 18.

Popov was punished for failing to pay two fines: a 29 October 2013 fine of 100 MFIs (173,100 Tenge) under the old Administrative Code Article 374-1, Part 1; and a 15 January 2014 fine of 50 MFIs (92,600 Tenge) under the old Administrative Code Article 375 (see F18News 13 March 2014 http://www.forum18.org/archive.php?article_id=1937).

Council of Churches Baptists – who refuse to submit their congregations to state registration – have adopted a policy of civil disobedience, refusing to pay fines for exercising the right to freedom of religion or belief.

Court bailiff Bauyrzhan Darkeyev issued two orders on 13 May, "temporarily banning" Popov from leaving Kazakhstan until the 2013 and 2014 fines had been paid. Balkhash City Court approved the travel bans. Darkeyev summoned Popov on 3 November and drew up an administrative record over non-payment of both fines and handed it to court.

Popov appealed against the 9 November fine. However, on 2 December Judge Totai Erimbetov at Karaganda Regional Court rejected his appeal, according to the decision seen by Forum 18.

Court bailiff Darkeyev defended his actions against Popov, insisting they had been taken on a "legal basis". Asked by Forum 18 on 3 December why Popov should have been punished for exercising the right to freedom of religion or belief, he responded: "Everyone must abide by the law, regardless of their religion or ethnic background." Darkeyev said that Popov is still banned from travelling abroad. "We can't remove the travel ban until he pays up. He knows this full well."

Fined for offering religious literature

A local police officer detained three Council of Churches Baptists – Vitaly Pan, Aleksandr Kulbeda and Valery Skorobogaty - for offering religious literature to local people in the village of Koszhar in Kyzylorda Region on 21 May. The officer took them to the police station in the nearby town of Aral. The officer drew up records of an offence against all three. He also confiscated 49 Christian books in Russian and Kazakh, including copies of the New Testament and brochures.

"Complex psychological philological religious studies expert examinations" of the confiscated books, completed on 22 June, found that they "did not preach any ideas in relation to other nations, races or religions", according to case documents seen by Forum 18.

On 24 August officials decided that the three men had not committed a criminal offence under Article 174, Part 1 (the same "offence" Kabduakasov was convicted of). Instead Erkin Abishev, head of Aral District Internal Policy Department, prepared cases under Administrative Code Article 490, Part 1 (seen by Forum 18). This punishes violating the state's censorship controls over religious literature. The cases were sent to three different courts.

All three were found guilty in November by different local courts of violating Administrative Code Article 490, Part 1, according to the decisions seen by Forum 18: Pan on 4 November by Judge Gulnara Tishtikbayeva of Kazali District Court of Kyzylorda Region; Kulbeda on 13 November by Judge Saparali Kurbanov of Sairam District Court of South Kazakhstan Region; and Skorobogaty in absentia on 27 November by Judge Didar Muratbekuly at Aral District Court of Kyzylorda Region. Each was fined 50 MFIs, 99,100 Tenge.

The Judge in Kulbeda's case ordered that the 49 Christian books seized from him be handed to Aral District Administration Internal Policy Department. Both in his and in Skorobogaty's case, the Judges ordered that they be prevented from distributing religious literature for three months (even though distributing religious literature is already illegal without a state licence and outside a registered venue authorised for sale or distribution).

An aide to Abishev at the Internal Policy Department said Abishev was in hospital. "Maybe the men were distributing books that weren't registered," the aide – who would not give his name - told Forum 18 from Aral on 3 December. Asked to explain why people do not have the right to offer uncensored religious literature to others, the aide responded: "People can't simply give out such religious books. The law specifies what places are approved for this."

The aide put the phone down before Forum 18 could ask what it intends to do with the 49 Christian books seized from the three men that the court ordered handed to the Internal Policy Department. (END)

Reports on freedom of thought, conscience and belief in Kazakhstan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=29>.

For more background, see Forum 18's Kazakhstan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1939.

For a personal commentary from 2005 on how attacking religious freedom damages national security in Kazakhstan, see F18News http://www.forum18.org/Archive.php?article_id=564.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at http://www.forum18.org/Archive.php?article_id=1351.

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