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UZBEKISTAN: Secret Supreme Court hearing rejects appeal

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Without his participation or knowledge, Uzbekistan's Supreme Court rejected Gayrat Ziyakhojayev's appeal against his criminal conviction for sharing Muslim texts with friends. A Tashkent Region court returned a criminal case against a Jehovah's Witness couple to prosecutors. The case seeks to punish them for sharing their faith with others.

In a secret hearing on 24 August, Uzbekistan's Supreme Court rejected the appeal of Gayrat Ziyakhojayev against his criminal conviction for sharing Muslim texts with his friends. However, just days earlier a Tashkent Region court returned a criminal case against a Jehovah's Witness couple to prosecutors because of numerous procedural errors. The cases come amid continuing state restrictions on speaking, publishing and sharing texts on religious themes.

Ziyakhojayev was convicted in June for possessing texts he had downloaded from a website officially allowed in Uzbekistan. Judge Khasan Egamberdiyev, who held the hearing in Ziyakhojayev's absence and without his knowledge, refused to discuss the case with Forum 18. He also refused to say if and when Ziyakhojayev's father's appeal for the return of his seized computer will be considered (see below).

Tashkent City's Uchteppa District Police opened a case against Davronbek Tojialiyev, who runs the websites ziyouz.uz and ziyouz.com, from which Ziyakhojayev downloaded the religious materials. Uchteppa Police questioned Ziyakhojayev as a witness in the case on 8 August. Tojialiyev told Forum 18 he is not aware that a case against him is current (see below).

Tashkent's Shaykhontokhur District Passport Police seized Ziyakhojayev's passport on 9 July and refused to issue an exit visa. Police told him that the State Security Service (SSS) secret police took away his passport. "Only after your calls to the authorities did they return it with an exit visa," he told Forum 18. "However, they warned me not to travel to Europe, especially to England, 'because it is the den of Islamic terrorists', as they put it" (see below).

Meanwhile, a Tashkent Region court returned a criminal case against Jehovah's Witnesses Yevgeni Kupayev and Natalya Kupayeva to prosecutors. The case has been brought to punish them for sharing their faith with others (see below).

Bloggers, imam punished for speaking out

From late August, the authorities arrested at least ten bloggers across the country for expressing their opinions on freedom of religion or belief issues, such as the freedom of Muslim women to wear the hijab (headscarf), men to grow beards and children to be allowed to attend mosque. At least eight were given administrative arrests of up to 15 days (see F18News 20 September 2018 http://www.forum18.org/archive.php?article_id=2416).

Also punished for expressing his views on religious themes was Fazliddin Parpiyev, Imam-hatyp of a mosque in Tashkent's Yunusabad District. Uzbekistan's state-sponsored Muslim Board dismissed him from his position after he condemned the authorities' pressure on Muslims for wearing the hijab and growing beards and called on Muslims to complain to President Shavkat Mirziyoyev (see F18News 20 September 2018 http://www.forum18.org/archive.php?article_id=2416).

Speaking and publishing on religious themes in Uzbekistan is under tight state control. The import, production and possession of literature – including the Koran and the Bible - is strictly controlled. This includes material on mobile phones, tablets, personal computers, memory sticks and other electronic devices and media, with compulsory prior censorship by the state's Religious Affairs Committee. Punishments for those who violate these restrictions can be severe, including imprisonment (see Forum 18's Uzbekistan religious freedom survey http://www.forum18.org/archive.php?article_id=2314).

Supreme Court rejects appeal in secret hearing

Tashkent-based Muslim Gayrat Ziyakhojayev has failed to overturn in the Supreme Court his criminal conviction for possessing Islamic materials on his phone, found by police in 2017. At the first instance Court, Tashkent City's Uchteppa District Criminal Court on 12 June 2018 convicted Ziyakhojayev under Criminal Code Article 244-1, Part 2.

Article 244-1 punishes "Production, storage, distribution or display of materials containing a threat to public security and public order", with Part 2 punishing "Dissemination of materials containing ideas of religious extremism, separatism, and fundamentalism, calls for pogroms or violent eviction, or aimed at creating panic among the population, as well as the use of religion for purposes of breach of civil concord, dissemination of calumnious and destabilising fabrications, and committing other acts aimed against the established rules of conduct in society and public order".

Punishments, which Ziyakhojayev faced, are a fine of up to 400 times the minimum monthly wage and deprivation of liberty for between three and five years. This Article is normally used against Muslims exercising their freedom of religion and belief (see Forum 18's Uzbekistan freedom of religion and belief survey http://www.forum18.org/archive.php?article_id=2314).

Although the court convicted Ziyakhojayev and he now has a criminal record, it freed him from punishment based on Criminal Code Article 70. However, it ordered his notebook computer and mobile phone to be destroyed. These contain irreplaceable family photos and videos (see F18News 26 June 2018 http://www.forum18.org/archive.php?article_id=2390).

Ziyakhojayev unsuccessfully tried to overturn his conviction and return the computer, which belongs to his parents. On 17 July, Tashkent City Criminal Court upheld Ziyakhojayev's conviction and the decision to confiscate his property. "Judge Turgunova ignored all my objections to falsehoods in the case and did not even answer any of my questions," Ziyakhojayev told Forum 18 in July (see F18News 20 July 2018 http://www.forum18.org/archive.php?article_id=2397).

On 27 July, Ziyakhojayev appealed to the Supreme Court in Tashkent. He called for his criminal case to be re-investigated and his conviction overturned. On 14 August his father Abdugani Ziyakhojayev appealed to the Supreme Court insisting that the computer seized in his son's case and ordered destroyed belongs to him and demanding its return.

Both Gayrat Ziyakhojayev and his father Abdugani Ziyakhojayev complained that under Criminal Procedure Code Article 211, Part 1, "the files in question should have been deleted, and the computer with the other files on it should have been returned to the lawful owners".

Several times between 20 August and 5 September Gayrat Ziyakhojayev complained to Forum 18 that the Supreme Court was ignoring his and his father's appeals. Forum 18 has seen stamps of acceptance by the Supreme Court on these two appeals.

Ziyakhojayev complained to Forum 18 that the Supreme Court has "not notified me of what happened to my complaint in writing. Nor did the Judges, including Uchkun Ruziyev, who received us several times in the Court between 27 July and 14 August, tell us whether the Court will hear the appeal."

Asked whether and when the Supreme Court will hear Ziyakhojayev's and his father's appeals, Judge Ruziyev on 5 September claimed to Forum 18 that "I do not remember whether or not I received the mentioned persons." Told that Forum 18 has seen a copy of the Supreme Court stamps on the appeals showing that the Court accepted them, he responded: "Maybe I did receive them, but this doesn't mean that I will hear their cases." Asked when the Court will hear the appeals, he responded: "I cannot discuss cases with you over the phone." He then declined to talk to Forum 18 further.

On 6 September, one day after Forum 18 spoke to Judge Ruziyev of the Supreme Court, Ziyakhojayev received Judge Khasan Egamberdiyev's decision from 24 August to reject his appeal against his conviction. The decision, seen by Forum 18, claims that the Courts in earlier decisions "correctly qualified Ziyakhojayev's actions". Ziyakhojayev was not invited to the hearing and did not know about it until he received the written decision nearly two weeks after the alleged hearing.

Judge Egamberdiyev declined to discuss the case with Forum 18 on 7 September, including over why the hearing took place in secret without Ziyakhojayev even knowing about it. He also refused to tell Forum 18 whether or when the Court will hear Abdugani Ziyakhojayev's appeal for the return of the computer.

New case against website host?

Probably in July or early August, Tashkent City's Uchteppa District Police opened a case against Davronbek Tojialiyev, who runs the websites ziyouz.uz and ziyouz.com, from which Gayrat Ziyakhojayev had downloaded the Islamic materials for which he was prosecuted in Tashkent (see above).

Officer Dilmurod Akhmedov of Uchteppa District Police summoned Ziyakhojayev and questioned him in Tojialiyev's case on 8 August. "Some of my friends, who were questioned in my case, were also summoned and questioned in this new case," Ziyakhojayev told Forum 18. In mid-August, Police questioned Tojialiyev.

Officer Akhmedov on 31 August claimed to Forum 18 that "there will be no new punishments for Ziyakhojayev," and that he is "only a witness in the case". He refused to discuss the case against Tojialiyev with Forum 18.

"Officially no criminal or administrative case has been opened against me," Tojialiyev told Forum 18 on 13 September. He said he had not been detained or questioned. "Maybe Akhmedov had some plans, but I am not aware of them."

Exit visa denial overturned after two months

Ziyakhojayev applied on 9 July to the Shaykhontokhur District Division of the Interior Ministry's Passport Police for permission to leave Uzbekistan, the so-called exit visa required every two years to visit any country apart from a handful of former Soviet states. The Police at first confiscated his passport and other documents he submitted and refused to issue him the visa.

However, on 7 September, after Ziyakhojayev's complaints to higher authorities, they finally returned him the passport with the visa, nearly two months after he applied.

Initially the Passport Police officials told him that the SSS secret police took away his passport, and that "they are investigating his background".

After the Passport Police refused to return his passport, Ziyakhojayev on 8 August visited Senator Botir Matmuradov in Parliament's Upper Chamber and complained to him about the situation. He also filed a written complaint to the General Prosecutor's Office on 15 August.

"The Senator told me that he called various authorities, who told him that the SSS secret police is investigating my case. He told me that no one can help me," Ziyakhojayev lamented to Forum 18. "Everyone in Uzbekistan is afraid of the SSS, even Senators."

Asked whether the General Prosecutor's Office is investigating Ziyakhojayev's complaint, Prosecutor Surayyo Rakhmanova, Chief of the Press Office, told Forum 18 on 5 September that she is "not familiar with the case." She took the details, and promised Forum 18 that "We will look into the case, and let you know of our further actions".

Two days later, on 7 September, Shaykhontokhur District Criminal Police Officer Mirbosit Mirkosimov phoned Ziyakhojayev and summoned him to the Police. "Mirkosimov asked me to bring reference letters from my neighbours and the mahalla [city district] Committee," Ziyakhojayev told Forum 18.

After long questioning by Officer Mirkosimov and another official in plain clothes at Shaykhontokhur Police Station, officials returned Ziyakhojayev his passport with an exit visa.

"But before this they put me against the wall, and took my picture. They angrily asked me why I talked to international journalists. Thankfully, I talked to you, now I have my passport back," Ziyakhojayev told Forum 18. "However, they warned me not to travel to Europe, especially to England, 'because it is the den of Islamic terrorists', as they put it."

Criminal case returned to prosecutors

A court in Tashkent Region has returned to prosecutors a criminal case against a Jehovah's Witness married couple, Yevgeni Kupayev and Natalya Kupayeva, for sharing their beliefs with others. Parkent Police had opened the case against both the Kupayevs on 14 March under Criminal Code Article 216-1 ("Inducement to participate in the activity of illegal public associations, religious organisations, movements, or sects"). Parkent District Criminal Court had been due to begin hearing the case on 23 July.

After the complaint of Jehovah's Witnesses, Parkent District Criminal Court ruled on 20 August to send the case back to the District Prosecutor's Office because of numerous procedural errors, Jehovah's Witnesses told Forum 18 on 28 August.

Parkent Police acted illegally during the February arrests of the Kupayevs and two other Jehovah's Witnesses. A male police officer searched the bodies of women (see F18News 20 July 2018 http://www.forum18.org/archive.php?article_id=2397). (END)

For more background, see Forum 18's Uzbekistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=2314.

Full reports on freedom of thought, conscience and belief in Uzbekistan can be found at <http://www.forum18.org/Archive.php?query=&religion=all&country=33>.

For a personal commentary by a Muslim scholar, advocating freedom of religion and belief for all as the best antidote to Islamic religious extremism in Uzbekistan, see http://www.forum18.org/Archive.php?article_id=338.

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

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