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KAZAKHSTAN: Three years' jail, five years' religion ban

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

A Balkhash court jailed Abilai Bokbasarov for three years to punish him for meetings about Islam. It also banned him from exercising freedom of religion for five years after his term, the equal longest such ban. A judge refused to explain what he will be banned from doing. The government withdrew proposed further legal freedom of religion and belief restrictions.

A 28-year-old resident of Balkhash has become the 73rd Muslim known to have been convicted and punished in Kazakhstan for alleged membership of the Tabligh Jamaat Muslim missionary movement since the beginning of 2015. Balkhash City Court jailed Abilai Bokbasarov for three years on 9 January and, after his release, banned him from exercising freedom of religion or belief for five years.

"The verdict was three years' imprisonment in a medium-security institution and deprivation of the right to engage in religious activity for five years," the Judge who speaks on behalf of the Court told Forum 18.

Although courts often hand down post-prison bans on the exercise of freedom of religion or belief, the five-year ban handed to Bokbasarov is the equal longest known to Forum 18. The Judge who speaks on behalf of the Court refused to discuss the ban with Forum 18 or to specify what the ban will mean in practice (see below).

After Sunni Muslim Saken Tulbayev was in 2015 initially banned from praying and other exercise of the right to freedom of religion or belief for three years after his release from prison, Yevgeny Zhovtis of the Kazakhstan International Bureau for Human Rights and the Rule of Law condemned the ban as "another total stupidity and total absurdity".

He noted to Forum 18 in July 2015 that although Kazakh law allows such a ban – in defiance of the country's international human rights obligations - "it will be interesting how they will prohibit him from going to mosque and so on". (http://www.forum18.org/archive.php?article_id=2078)

As with all the other criminal convictions in recent years to punish the exercise of freedom of religion or belief – including of Muslims, Jehovah's Witnesses and a Seventh-day Adventist – the case against Bokbasarov was initiated by the National Security Committee (NSC) secret police.

An Astana court banned Tabligh Jamaat in Kazakhstan as "extremist" in February 2013. The movement's adherents often travel around the country encouraging other Muslims to greater piety, for which many members have also been fined.

Of the 73 known criminal convictions of alleged Tabligh Jamaat adherents since the beginning of 2015 to punish them for exercising freedom of religion or belief, 52 were given prison terms while 21 were given restricted freedom sentences. In the most recent known case, in July 2018 a judge in Aktobe Region punished seven Muslims with restricted freedom sentences of one to three years for holding religious meetings which the prosecution argued were "extremist". (http://www.forum18.org/archive.php?article_id=2398)

Now that his verdict has come into force, Bokbasarov is likely to be added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism". Being added to the List means that any bank accounts an individual may have will be blocked with no further legal process. Their families will be allowed to withdraw only small amounts for daily living if they do not have other sources of income. (http://www.forum18.org/archive.php?article_id=2409)

The seven Muslims given restricted freedom sentences in Aktobe Region in July 2018 are among those recently added to the Financial Monitoring Committee List of those whose bank accounts are blocked (see below).

Two men from Atyrau arrested in an apparent attempt to pressure them to give testimony against Murat Bakrayev, a Muslim Kazakhstan's authorities are trying to extradite from Germany, were convicted in December 2018. An Atyrau court gave Erzhan Sharmukhambetov and Ermek Kuanshaliyev restricted freedom terms of three and a half years each. Prosecutor Marat Khabibullin refused to discuss the cases with Forum 18 (see below).

Akmola Regional Court went ahead with an appeal hearing in the case of another jailed Muslim Dadash Mazhenov on 30 January, despite his decision to withdraw his appeal. The Regional Court left his jail term of seven years and eight months unchanged (see below).

Government withdraws restrictive legal amendments

The government has withdrawn from Parliament amendments to a variety of laws which would have restricted the exercise of freedom of religion or belief still further. The government sent to Parliament a draft Amending Law proposing many wide-ranging changes to the 2011 Religion Law, Administrative Code and many other laws in late 2017. The changes included but were not limited to: greater state control of religious communities the regime allows to exist; more restrictions on religious teaching without state permission, and sharing the beliefs of religious communities denied state permission to exist; and ordering that all religious literature that has not been passed state censorship must be confiscated (http://www.forum18.org/archive.php?article_id=2419). The Amending Law was approved by the lower house, the Majilis, and then the upper house, the Senate, but was returned to the Majilis in September 2018. (http://www.forum18.org/archive.php?article_id=2419)

Prime Minister Bakytzhan Sagantayev issued the brief decree withdrawing the Amending Law from the Majilis on 29 January 2019. The decree gave no reason for the decision.

Balkhash: Three-year jail term in secret police-initiated case

The NSC secret police accused a Muslim resident of the south-eastern city of Balkhash in Karaganda Region of trying to recruit other Muslims to the banned Tabligh Jamaat movement. It claimed that Abilai Aidaruly Bokbasarov (born 12 February 1991) held "secret meetings" about his faith at a flat he rented for this purpose in the city, during which he "propagandised the ideas of the movement".

Bokbasarov had hoped to recruit "the maximum number of people", Nur.kz reported on 15 January, but NSC secret police officers "speedily neutralised the suspect".

The NSC arrested Bokbasarov on 13 August 2018 and a court ordered him held in pre-trial detention. A case was brought against him under Criminal Code Article 405, Part 1. This punishes "Organising 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" with a fine or up to six years' imprisonment.

The NSC secret police commissioned an "expert" psychological/philological analysis, which was completed in August 2018.

Bokbasarov admitted his guilt during the investigation and Balkhash Prosecutor's Office agreed a plea bargain with him, Judge Nurgul Berlikesheva of Balkhash City Court told Forum 18 on 14 February 2019.

On 9 January, Judge Bakhtiyar Akanov of Balkhash City Court found Bokbasarov guilty under Criminal Code Article 405, Part 1. "The verdict was three years' imprisonment in a medium-security institution and deprivation of the right to engage in religious activity for five years," Judge Berlikesheva told Forum 18. Local lawyer Anatoly Golovin defended Bokbasarov in court.

Judge Berlikesheva would not discuss why her colleague had imposed a five-year ban on Bokbasarov exercising his right to freedom of religion or belief after completing his jail term. Nor would she specify the terms of the ban.

Judge Akanov also ordered that Bokbasarov pay "compensation" to "victims" of 48,100 Tenge (about two weeks' average wages for those in formal work) and a fee of 1,255 Tenge for the "expert analysis" the NSC secret police commissioned, according to court records. Judge Berlikesheva told Forum 18 Bokbasarov had to pay the "compensation", even though there were no victims of his actions.

Bokbasarov did not appeal against the conviction because of the plea bargain, Judge Berlikesheva added, and it has now come into force.

Balkhash Prosecutor's Office refused to discuss Bokbasarov's case with Forum 18 on 13 February.

Now that his verdict has come into force, Bokbasarov is likely to be added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism".

This means, for those on the List, that any bank accounts they may have will be blocked with no further legal process. Their families will be allowed to withdraw only small amounts for daily living if they do not have other sources of income. (http://www.forum18.org/archive.php?article_id=2409)

Atyrau: Two restricted freedom sentences

Two men from the western city of Atyrau who were arrested in an apparent attempt to pressure them to give testimony against Murat Bakrayev, a Muslim the authorities are trying to extradite from Germany, were convicted in December 2018.

On 20 October 2018, the NSC secret police arrested Erzhan Ruslanovich Sharmukhambetov (born 26 November 1980) in Atyrau. Arrested with him was his wife, but she was freed the following day. Also arrested the same day was Ermek Serikovich Kuanshaliyev (born 29 December 1980). (http://www.forum18.org/archive.php?article_id=2427)

Sharmukhambetov and Kuanshaliyev are childhood friends of Sunni Muslim Bakrayev, who has not visited Kazakhstan since he and his family left in 2005. He was arrested in Germany on 15 September 2018 at the request of the Kazakh authorities, who had issued an Interpol Red Notice against him and are seeking his extradition. (http://www.forum18.org/archive.php?article_id=2423) He remains in custody in Germany as he fights the extradition request, his relatives told Forum 18 on 13 February.

NSC Investigator Nurzhan Bisengaliyev initially investigated the cases against Sharmukhambetov and Kuanshaliyev. He refused to discuss the cases with Forum 18 in October 2018. (http://www.forum18.org/archive.php?article_id=2427) The NSC secret police then handed the cases over to the Regional Prosecutor's Office.

Prosecutors brought charges against Sharmukhambetov and Kuanshaliyev under Criminal Code Article 174, Part 1 and Article 405, Part 2.

Article 174, Part 1 punishes "Incitement of social, national, clan, racial, or religious discord, insult to the national honour and dignity or religious feelings of citizens, as well as propaganda of exclusivity, superiority or inferiority of citizens on grounds of their religion, class, national, generic or racial identity, committed publicly or with the use of mass media or information and communication networks, as well as by production or distribution of literature or other information media, promoting social, national, clan, racial, or religious discord" with a maximum punishment of a seven-year jail term.

Article 405, Part 2 punishes "participation 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" with a fine or up to two years' imprisonment.

On 6 December 2018, Judge Zhumagali Tashimov of Atyrau City Court No. 2 found both Sharmukhambetov and Kuanshaliyev guilty under both charges. He sentenced both men to restricted freedom terms of three and a half years. Marat Khabibullin of Atyrau Regional Prosecutor's Office led the prosecution case in court, the court chancellery told Forum 18 on 14 February 2019.

Prosecutor Khabibullin refused to discuss the cases with Forum 18 on 14 February.

The two men did not appeal against their sentences. Sharmukhambetov was added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism" on 16 January.

Since the men's release the NSC secret police are reportedly watching them closely, friends told Forum 18. NSC cars are frequently parked outside their homes and officers visit them. The two men are said to be afraid to maintain contact with others.

Bank accounts blocked

Other prisoners of conscience punished for exercising freedom of religion or belief have been added to the Finance Ministry Financial Monitoring Committee List of individuals "connected with the financing of terrorism or extremism", blocking their bank accounts.

A group of Muslims given restricted freedom sentences of up to 3 years in Aktobe Region in July 2018 for alleged Tabligh Jamaat membership (http://www.forum18.org/archive.php?article_id=2398) were added to the List in August 2018: Amanzhol Kishkentekov and Zhanat Dosalin on 10 August, and the other five - Zhasulan Zhappargaliuly, Mukharam Baizakov, Daulet Elemesov, Aslan Temiralin and Miras Murzagulov - on 14 August.

Muslim prisoner Galymzhan Abilkairov, jailed in Shchuchinsk in October 2018 for posting on social media four talks about Islam by prisoner of conscience Kuanysh Bashpayev (http://www.forum18.org/archive.php?article_id=2427), was added to the List on 23 January 2019. Akmola Regional Court had rejected Abilkairov's appeal against his prison term of seven years and seven months on 26 December 2018, according to court records. He is serving his sentence in Taraz, friends told Forum 18.

Akmola Region: Muslim's appeal rejected

Akmola Regional Court went ahead with an appeal hearing in the case of another jailed Muslim Dadash Mazhenov on 30 January, despite his decision to withdraw his appeal. The Regional Court left his jail term of seven years and eight months unchanged,

according to court records.

"Dadash wrote to say he was rejecting an appeal as practice showed that the appeal court changed nothing and there was no point in an appeal," Mazhenov's relatives told Forum 18 on 14 February. "But without his agreement they went ahead with the appeal with a duty lawyer."

Burabai District Court in the central Akmola Region jailed Mazhenov on 16 November 2018 for posting online talks on Islam which the authorities claim promoted terrorism. The court handed the 28-year-old father of one a term of seven years and eight months in a general regime labour camp. (http://www.forum18.org/archive.php?article_id=2435)

Mazhenov is still being held in Kokshetau's Investigation Prison (ETs 166/23) but expecting to be transferred to a labour camp soon, relatives told Forum 18. (END)

Full reports on freedom of thought, conscience and belief in Kazakhstan
(<http://www.forum18.org/archive.php?query=&religion=all&country=29>)

For more background, see Forum 18's Kazakhstan religious freedom survey (http://www.forum18.org/archive.php?article_id=2409)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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