

5 August 2019

KAZAKHSTAN: Eight jailed for up to eight years

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

An Almaty Judge jailed eight Muslims for between five and a half and eight years for participating in a WhatsApp religious discussion group which the NSC secret police claimed promoted "propaganda of terrorism" or "inciting hatred". The men denied the charges. The ninth man is due for trial later as he is suffering serious heart problems.

On 5 August a court in the southern city of Almaty handed long jail terms to eight Muslims accused of participating in a WhatsApp religious discussion group which the NSC secret police claimed promoted "propaganda of terrorism" or "inciting hatred". All denied the accusations. The Judge jailed each of them for between five and a half and eight years.

Among the messages the group's participants circulated was one by Azamat Umbetaliyev, warning about innovations in religion. An analysis of the message - commissioned by his defence lawyer from Adil Soz (Free Word) International Foundation for Protection of Freedom of Speech – found (http://www.forum18.org/archive.php?article_id=2497): no incitement to hostility towards others based on their religious affiliation; no incitement to aggression or violence towards others based on their religious affiliation; no assertion or propaganda that anyone is superior or inferior to anyone else based on their religious affiliation.

When Judge Kairat Imankulov pronounced the verdict on 5 August at the end of the five-month trial, the defendants and their relatives and supporters in the courtroom shouted "Shame on the court!", noted Kazis Toguzbayev of Radio Free Europe's Kazakh Service, who was present in the courtroom (see below).

Anzhelika Belyayeva, mother of the jailed Azamat Umbetaliyev, insisted the men had been jailed "for nothing". "We know our children have done nothing," she told Forum 18 after the verdict was handed down. She said they would be appealing against their convictions to Almaty City Court as soon as they get the verdict in writing (see below).

Judge Imankulov gave no date for the start of the criminal trial of the ninth defendant, Zhuldyzbek Taurbekov. He is suffering from serious heart problems and has repeatedly been taken from Investigation Prison to hospital. The family say his health suffered because of lack of medical attention during his eight-month detention in Investigation Prison and he now needs a heart transplant. His case was separated off from that of the other eight on 3 July (see below).

If the eight men lose any appeals, they are also 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 are blocked with no further legal process. (http://www.forum18.org/archive.php?article_id=2409) Their families are allowed to withdraw only small amounts for daily living if they do not have other sources of income. Individuals remain on the Financial Monitoring Committee List for six or eight years after their sentence has expired.

The National Security Committee (NSC) secret police Investigator Lieutenant-Colonel Rakhmat Rustemov – who initiated the criminal case - claimed that because the WhatsApp group's founder Bolatbek Nurgaliyev is a Salafi Muslim, and that terrorist groups such as Islamic State have conducted terrorist activity, therefore the WhatsApp group promoted terrorism. Neither he, nor the indictment, nor the four successive prosecutors during the trial appear to have tried to establish whether or not Nurgaliyev and the other defendants had committed or called for terrorism (see below).

NSC secret police Investigator Lieutenant-Colonel Rustemov again would not talk to Forum 18 on 5 August. "Hallo? Who is it?" he kept repeating, even though Forum 18 could hear him well. Subsequent calls went unanswered.

Up to eight-year jail terms

At the end of a criminal trial which began at Almaty's Almaly District Court on 12 March (http://www.forum18.org/archive.php?article_id=2497), Judge Kairat Imankulov found all eight of the remaining Muslim defendants guilty of participating in a religious discussion group on the WhatsApp messaging app. In a case brought by the NSC secret police, the prosecution claimed the group promoted terrorism and incited hatred. The defendants rejected the accusations.

Judge Imankulov convicted all eight Muslims under Criminal Code Article 174, Part 2. This punishes (http://www.forum18.org/archive.php?article_id=2409) "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". Punishment under Part 2, when such actions are carried out by a group of people, is a jail term of between five and ten years.

Judge Imankulov also convicted three of the eight Muslims under Criminal Code Article 256, Part 2. This punishes (http://www.forum18.org/archive.php?article_id=2409) "Propaganda of terrorism or public calls to commit terrorism", which includes the production, storage for distribution or distribution of [unspecified in the Article] specified materials, carries a punishment of five to nine years' imprisonment plus confiscation of property. If committed by an individual using a state or non-state official position, or with the use of the mass media or other communication networks, or with foreign support, or in a group, the punishment is seven to 12 years' imprisonment with confiscation of property.

The Judge handed down ordinary regime jail terms on each of between five and a half and eight years.

Those sentenced under both Criminal Code Article 256, Part 2 and Criminal Code Article 174, Part 2 were:

- 1) Bolatbek Dyusenbekovich Nurgaliyev (born 12 December 1978) – 8 years' imprisonment
- 2) Ernar Samatovich Samatov (born 19 March 1980) – 7 and a half years' imprisonment
- 3) Beket Tastanbekovich Mynbasov (born 10 January 1983) – 7 and a half years' imprisonment

Those sentenced only under Criminal Code Article 174, Part 2 were:

- 1) Nazim Alimzhanovich Abdrakhmanov (born 10 March 1988) – 5 and a half years' imprisonment
- 2) Samat Asylkhanovich Adilov (born 28 August 1986) – 5 and a half years' imprisonment
- 3) Zhasulan Meiramovich Iskakov (born 22 October 1984) – 5 and a half years' imprisonment
- 4) Esim Kadirzhumanovich Suleimenov (born 1 February 1983) – 5 and a half years' imprisonment
- 5) Azamat Gaidarovich Umbetaliyev (born 10 January 1992) – 5 and a half years' imprisonment

When Judge Imankulov pronounced the verdict, defendants and their relatives and supporters in the courtroom shouted "Shame on the court!", noted Kazis Toguzbayev of Radio Free Europe's Kazakh Service, who was present in the courtroom. Relatives then went out to the street in front of the court with placards reading "We need a just court" and "The innocent shouldn't be in prison".

Anzhelika Belyayeva, mother of the jailed Azamat Umbetaliyev, insisted the men had been jailed "for nothing". "We know our children have done nothing," she told Forum 18 from Almaty after the verdict was handed down. She said they would be appealing against their convictions to Almaty City Court as soon as they get the verdict in writing.

At present, all nine Muslims – including Taurbekov – are being held in the police's Investigation Prison LA-155/18 in Almaty's Turksib District. The prison address:

050054, g. Almaty

Turksibsky raion

Ul. Krasnogorskaya d. 73

Uchr. LA-155/18

No trial date for sick prisoner

Judge Imankulov gave no indication of when the criminal trial against the ninth Muslim, Zhuldyzbek Abikenovich Taurbekov (born 20 September 1978), is likely to begin, Radio Free Europe noted on 5 August. He said a medical commission will first have to assess Taurbekov's health and determine if he is fit to stand trial.

Taurbekov's case was separated off from that of the other eight on 3 July because of his health.

At the trial's final full session on 31 July, Taurbekov's mother, Asemgul Zhaugasheva, told the court in some distress that her son had been taken again to the cardiology centre the previous day for the third time. He was taken back to the Investigation Prison after four hours. (http://www.forum18.org/archive.php?article_id=2497) She added that he is in need of a heart transplant.

Arrested October 2018

The nine Muslims have been held in pre-trial detention in Almaty since their arrest in October 2018. The National Security Committee (NSC) secret police discovered a Muslim discussion group on the WhatsApp messaging app. The NSC claim they were alerted to the group on 18 October 2018 by an individual identified only as "B.K.Sh."

In August 2018, the NSC secret police Investigator, Lieutenant-Colonel Rakhat Rustemov, commissioned "expert analyses" of texts circulated in the discussion group.

On 27 October 2018 the NSC secret police arrested nine participants in the group in various parts of Kazakhstan. They were all taken to the NSC's Investigation Prison in the southern city of Almaty. Some of the men already knew each other, but others had never met and had only ever communicated via the group.

The 18 February 2019 indictment – seen by Forum 18 - claimed that because the WhatsApp group's founder Bolatbek Nurgaliyev is a Salafi Muslim, and that terrorist groups such as Islamic State have conducted terrorist activity, therefore the WhatsApp group promoted terrorism. Neither NSC Investigator Rustemov, nor the indictment, nor the four successive prosecutors during the trial appear to have tried to establish whether or not Nurgaliyev and the other defendants had committed or called for terrorism.

One of the men's lawyers, Galym Nurpeisov, questioned during his concluding remarks on 31 July why the Islamic State terrorist group was relevant to the case when prosecutors had presented no proof that any of the defendants had any link to it or had made any comment in its support. (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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