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KAZAKHSTAN: Nationwide religious property seizures continue

By Mushfig Bayram, Forum 18 News Service <<http://www.forum18.org>>

Almaty regional Public Prosecutor's Office seems keen to seize property from religious communities, Forum 18 News Service has learnt. Six property cases against Christian and Muslim religious organisations in the region are known to have been initiated since mid-June. Amongst them is Agafe Protestant Church, the regional Economic Court ruling - despite numerous violations of due process - that the Church's building and land should be confiscated. A defence lawyer has received anonymous death threats, and an appeal will take place on 27 August. The regions' Hare Krishna commune also continues to struggle to retain its property. Similar attempts to seize religious property continue elsewhere in Kazakhstan. Near the north-western town of Alga, New Life Protestant Church has been evicted from its building. Grace Protestant Church in Semey, eastern Kazakhstan, has been forced to brick up windows, as the Fire Brigade insists on this "in case there is a fire in the neighbouring property." The Church has also been prohibited from using its own building.

Almaty Region, the area around Kazakhstan's commercial capital, seems to be keen to seize property from religious communities, Forum 18 News Service has learnt. Ninel Fokina of the Almaty Helsinki Committee told Forum 18 on 14 August that she knew of six property cases against Christian and Muslim religious organisations in the region, initiated by the region's Public Prosecutor's Office, between mid-June and mid-August.

Zhangazy Kunserkin, a defence lawyer who has acted in these cases, told Forum 18 on 15 August that one Protestant Church - which wishes to remain unnamed - was given a small fine in June for allegedly misusing land. Kunserkin, based on his experience, suspects that this will not be the end of the matter. "In six months the authorities will fine the Church again, and then they will try to confiscate the building." He also knows of some religious organisations who have reached agreements with the authorities that they do not wish to make public.

Rashid Abekov from the Almaty regional Public Prosecutor's Office told Forum 18 on 14 August that each case was considered on its own merits. He would not discuss why all the property cases are directed against religious organisations.

Similar attempts by the authorities to seize religious property continue elsewhere in Kazakhstan. In the small town of Alga, near the north-western city of Aktobe [Aqtobe], the authorities have been trying to seize the New Life Protestant Church's building (see F18News 25 April <http://www.forum18.org/Archive.php?article_id=1120>). On 12 May, Alga District Civil Court decided to evict the church. "We could not appeal against this, because the building was not listed as belonging to us on the official documents," Vasili Kim of the Church told Forum 18 on 20 August.

In 2005 the Hakim (district authority) of Alga district decided to strip the church of its building, but church leaders did not want to challenge the authorities in the courts. The Hakim took the case to Alga District Court - without the Church knowing of this - and the court decided that the church building was "derelict." Because this was not legally challenged, there are no grounds to appeal against the eviction.

The authorities did not offer any compensation to the Church, but said they might allow the Church to - at its own expense - buy land at commercial rates on the outskirts of the town. Kim explained that this would be too expensive, so they are trying to rent land.

"We are preparing all the necessary documents to rent land, but it's not going to be easy," Kim explained. "We have to overcome all kinds of bureaucratic barriers, including getting documents from officials responsible for electricity, architecture, public health, water and sewage," Kim complained. Once all these documents have been obtained, the land then has to be registered with the Hakim.

The Deputy Akim (Head of Executive Authority) of Aktobe, Nurkhan Agniyazov, told Forum 18 on 20 August that he did not want to talk about the eviction. "I am not entitled to report to you what we do or do not do", he stated angrily.

The Agafe Protestant Church in Almaty Region is also struggling to retain its property. On Wednesday 27 August, the Region's specialised Economic Court is due to hear an appeal against the Court's 12 June decision to expropriate the church building and the

0.44 hectares (1 acre) of land on which it stands in the village of Pyramoy Put.

The Karasai district Public Prosecutor's Office brought the 12 June case before Judge Sholpan Murzekenova. District Prosecutor Kenjaly Usipbaev claimed, in a legal statement seen by Forum 18, that the Almaty regional Department of State Property Management and the Karasai district Hakim did not "appropriately organise" the transfer of state property to the Church. In October 2007, the Department of State Property Management gave the village's House of Culture to the Church free-of-charge, the Hakimat having in October 2004 sold the land on which it stood to the Church.

Vladimir Sadykov, a defence lawyer working on the case, told Forum 18 on 11 August that the church had invested much time, energy, and resources in the building, which was derelict for two years before the transfer. The heating, electric wiring, sewage and plumbing systems were ruined. The roof was totally ruined, and the façade of the building was partially destroyed. Sadykov stated that the Church had completely overhauled the building.

Another defence lawyer working on the case, Olga Parfyonova, told Forum 18 on 13 August that the Economic Court's expropriation decision "was done in haste, without proper questioning of witnesses." The people who transferred the building to the Church, Vyacheslav Filatov the former director of the House of Culture and Nasreddin Tusupov the Hakim of Irgeli rural district (now the Deputy Hakim of Karasai District) were not questioned by the Court. Parfyonova stated that courts of first instance often make such decisions in favour of the State or some influential persons without due process.

The Church's legal appeal of 26 June, which Forum 18 has seen, also notes that:

the Court went beyond the stated case in questioning the legal status and "missionary activity" of the church's leader Ee Syn Bok;

- the Court did not investigate the circumstances of the case;

- the Court accepted testimony from a prosecution witness who had not been named in the Public Prosecutor's claim, Smagul Sadyrkuliuly of the village's Council of Veterans, without giving due notice of his testimony to the defence;

- the Court did not make Sadyrkuliuly swear that he was not giving false testimony;

- the Court claimed that as the building was not registered in the name of Ee Sun Bok, and she could not determine its legal status, but ignored the fact that the building is legally the property of the Church;

- the Court did not cite the legal owner, the Church, in the case;

- and the Court accepted false testimony from the Public Prosecutor that the Church is not registered with the Justice Ministry, even though it was registered on 7 March 1996.

Also, the Church notes that the Public Prosecutor, in his claim that the transfer violated the Privatisation Law, ignored the fact that the transfer actually took place under the Religion Law. Article 16 of the Law entitles religious organisations to own property transferred by the state, and Article 17 entitles local executive authorities to transfer the rights of ownership of cultural buildings or the rights to use them to religious organisations.

Many other Houses of Culture were given away free-of-charge or sold to private persons, Parfyonova, the Church's lawyer, told Forum 18. "Former culture houses are now bars, restaurants, mosques and used for other purposes in Almaty region," she said. "However," she continued, "the authorities are mainly trying to get back buildings used by religious organisations."

Judge Murzekenova insisted to Forum 18 that the Agafe Church was not singled out by the authorities. "Although it is the first such court case in our district, other property cases have been tried by the courts in other districts and regions", she stated on 13 August. Asked why there were so many violations of due process, Murzekenova did not want to discuss the case further. "Look, I am not allowed to discuss the case with you over the phone," she said.

The Organisation for Security and Co-operation in Europe (OSCE) has found that court proceedings in Kazakhstan do not offer the guaranteed right to a fair trial. In a February 2007 report on trial monitoring, the OSCE found that Kazakh court proceedings needed to offer "the right of the public to attend court, equality between the parties and the presumption of innocence" (see <<http://www.osce.org/item/23396.html>>).

Sadykov from the Church's lawyers complained to Forum 18 that he had received telephone death threats. "People, who I did not recognise, phoned me, and threatened that they would kill me if I did not drop pressing this case", Sadykov stated. Lawyers working on another case in Karasai District, the attempted confiscate of a Hare Krishna commune, have been intimidated into dropping the case (see F18News 1 December 2006 <http://www.forum18.org/Archive.php?article_id=881>).

"Courts were politically engaged" in Kazakhstan, Sadykov suggested. "I think there is an influential person interested in the building

and the piece of land", he said. Commenting on the Church's extensive refurbishment of the building, he thought that "some people are interested in getting the building in good shape for free now."

Almaty regional Civil Court, presided over by Judge Murat Turzhan, decided on 16 July after the Church's appeal to partially cancel the Economic Court's decision and return the case for further investigation. However, Judge Turzhan has not stated what part of the Economic Court's decision was upheld. "We are dealing with many cases at the moment," he told Forum 18 on 13 August, "and I do not remember this."

Abekov from the Almaty regional Public Prosecutor's Office, asked whether they would punish also those from the Hakimat "guilty" of the "illegal" transfer, stated "let the court case finish, and only then we will talk to you about this." Fokina of the Almaty Helsinki Committee noted that the courts as a rule do not punish the authorities for making "illegal" decisions. "They will not do it because they are only interested in expropriating the religious organisations' property," she said.

Judge Zhanna Akhanova of the Economic Court will preside at the appeal hearing on 27 August.

The Hare Krishna community, also in the Karasai District of Almaty Region, continues its ongoing struggle to retain its property, and to resist the the authorities' attempts to move them to a rubbish dump without water outside Almaty (see F18News 25 April 2008 <http://www.forum18.org/Archive.php?article_id=1120>).

Maxim Varfolomeev of the Hare Krishna community pointed out that the authorities have left land confiscated from the community in early 2007 "empty and unused." "We were told by the authorities that they would give it back to the kindergarten," he told Forum 18 on 20 August, "but no one, including the kindergarten has done anything on the land." The Hakimat wrongly claimed that the kindergarten could not use the land because the community still occupied it, Varfolomeev stated.

Viktor Golous, the leader of the Hare Krishna community, told Forum 18 on 20 August that they were notified by the Almaty regional Hakimat on 19 August that the community will be sued to force them off their own land.

The Deputy Hakim of the Almaty Region, Serik Mukanov, refused to talk to Forum 18 on 15 August about the religious property cases in the Region. "Call me in the afternoon" he told over the phone. When called in the afternoon, he hung up the phone as soon as he heard the name Forum 18.

Grace Protestant Church in Semey, in Eastern Kazakhstan Region, continues to face legal claims - which the Church strongly disputes - that it does not comply with fire safety regulations. One example is a claim that their should be a six meter gap between their building and the next building. However, a church member told Forum 18, "there is no building on that land, it is an empty plot." Another commented that "it looks like they are trying to close down our church with any excuse" (see F18 News 3 July 2008 <http://www.forum18.org/Archive.php?article_id=1154>).

Despite the flaws in the authorities' claims, the Church is trying to comply with the authorities' demands. "We have now bricked up windows facing a neighbour's property," a church member who wished to remain anonymous told Forum 18 on 20 August. The Fire Brigade had told the church that the windows must be bricked up "in case there is a fire in the neighbouring property."

It is unknown how much time will be needed to comply with the authorities' demands, however unreasonable. But the church building cannot be used until the authorities' demands are met. "In the meantime we are meeting in another small building," Forum 18 was told.

Kazakhstan's controversial new Religion Law, which contains numerous violations of freedom of thought, conscience and belief (see eg. F18News 10 June 2008 <http://www.forum18.org/Archive.php?article_id=1141>) is currently expected to return to Parliament before the end of 2008. The authorities continue to raid religious minority communities while they are worshipping (see eg. F18News 30 May 2008 <http://www.forum18.org/Archive.php?article_id=1137>). (END)

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

For more background, see Forum 18's Kazakhstan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=701>.

More 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>>.

A survey of the religious freedom decline in the eastern part of the Organisation for Security and Co-operation in Europe (OSCE) area is at <http://www.forum18.org/Archive.php?article_id=806> and a survey of religious intolerance in Central Asia is at <http://www.forum18.org/Archive.php?article_id=815>.

A printer-friendly map of Kazakhstan is available at
<<http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=kazakh>>.

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