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KAZAKHSTAN: "Unlawful" fine - but will state do anything about it?

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

Kazakhstan continues to use property-related legal cases as a way of stopping people exercising their right to freedom of religion or belief, Forum 18 News Service has found. Officials have admitted that one fine imposed on the wife of the pastor of a forcibly closed Methodist Church was illegal. But officials have refused to admit that similar fines and bans - for example bans on Ahmadi Muslims meeting - are also illegal. They have also been unwilling to discuss halting future illegalities. In a different case, Kentau's Love Presbyterian Church has been fined and forced to close. Judge Ziyash Klyshbayeva cited alleged violations of fire safety rules in a building it rents. The verdict claimed that the Church asked that the case be heard in its absence, as it agreed with the authorities.

Kazakhstan continues to use property-related legal cases as a way of stopping people exercising their right to freedom of religion or belief, Forum 18 News Service has found. Although one such fine imposed on a forcibly closed Methodist Church has been admitted to be illegal, officials have refused to admit that other fines and bans imposed for the same reason and in the same circumstances - for example bans on Ahmadi Muslims meeting - are also illegal. Officials have also been unwilling to discuss the question of halting future illegalities, or taking disciplinary or other action against the officials responsible. In a different case, another Protestant Church has been forced to close for alleged violations of fire safety rules in a building it rents.

Communities from all faiths across Kazakhstan have told Forum 18 within the last month that they do not wish to complain about the authorities' actions in relation to bans on meetings or property-related cases, as they are preparing applications for re-registration. Religious communities of all faiths are afraid that, if they challenge any human rights violations by the authorities, they will be denied re-registration and banned under the 2011 Religion Law.

The Religion Law - against international human rights law - bans all exercise of freedom of religion or belief without state registration, and imposes compulsory re-registration by 25 October 2012. This and the accompanying need for state "expert opinion" on community documents and beliefs is placing obstacles in the way of registration being gained (see eg. F18News 30 May 2012 <http://www.forum18.org/Archive.php?article_id=1708>).

"Unlawful" fine

In Taldykorgan [Taldyqorgha], in Almaty Region, the authorities forced a Methodist Church in June to "voluntarily" announce its closure. The order followed an earlier fine on the wife of the Church's Pastor. Larissa Kim was fined for using her private home - the Church's registered legal address - for meetings for religious worship. The Church was then forced to pay for an announcement in newspapers that the Church had decided to liquidate itself. "We do not want more punishment from the authorities," Pastor Valery Kim told Forum 18 (see F18News 30 May 2012 <http://www.forum18.org/Archive.php?article_id=1708>). The authorities then forced the Church to pay for another announcement of its closure, this time in an official journal for legal announcements.

Pastor Kim told Forum 18 on 7 August that, as the Church had decided to close itself, they complained about the fine - which his wife had already paid - to Almaty Regional Prosecutor's office. Larissa Kim had paid the fine fearing that she might face an even larger fine after threats by Land Inspectors.

On 10 May the Kims received a letter from Adil Togayev, Director of Almaty Regional Land Inspectorate, saying that Land Inspector Askar Kuttybayev did "not classify correctly the use of their private home for religious worship", and that "based on the new Religion Law's Part 2 of Article 7 religious communities can rent or use private homes for religious activity".

Article 7 Part 2 allows "Worship services, religious rites, ceremonies, and/or meetings" to be held in homes, but only with the undefined limitation "if needed on condition that they respect the rights and interests of nearby residents" (see F18News 23 September 2011 <http://www.forum18.org/Archive.php?article_id=1617>).

The Kims also received letters on 21 May from Prosecutor Marat Abuyev of Almaty Regional Prosecutor's office and Prosecutor K. Usikbayev of Taldykorgan stating that the fine imposed on Kim by Land Inspector Askar Kuttybayev was "unlawful".

The inspection and fine followed a 1 February letter from the Land Agency ordering all its branches nationwide to inspect the properties of all currently registered religious organisations (see F18News 30 May 2012 <http://www.forum18.org/Archive.php?article_id=1708>). Kuttybaev had on 19 April refused to say from whom or where the instruction came to do so. He also refused to answer Forum 18's questions about the legality of his actions (see F18News 24 April 2012 <http://www.forum18.org/Archive.php?article_id=1692>).

"Inexperienced"?

Both Prosecutor Abuyev and Togayev of Almaty Regional Land Inspectorate on 9 August confirmed to Forum 18 that the fine was unlawful. Asked why Land Inspector Kuttybayev fined Kim, and put pressure on the Church, Togayev responded: "You know these Inspectors are young and were chosen to work for us by a competition." He added that they are "inexperienced, and may incorrectly interpret the laws".

Will state repay illegally imposed fine - or stop illegalities?

The letter from the Land Inspectorate the Kims received on 10 May also cancelled the fine. But asked on 9 August by Forum 18 whether the illegal fine will be repaid, Prosecutor Abuyev stated that Larissa Kim can bring a case through a court for the fine to be repaid. "Let her come to our office, and we will explain to her how she can do it."

No official was prepared to discuss how illegalities the state admits it commits can be stopped, or what disciplinary or other action will be taken against officials who break domestic laws or international human rights law Kazakhstan has formally promised to implement.

A precedent?

Many religious communities of all faiths have been targeted throughout Kazakhstan for alleged "illegal" use of property for meetings (see F18News 30 May 2012 <http://www.forum18.org/Archive.php?article_id=1708>).

When Forum 18 asked Prosecutor Abuyev whether the state's admitting that the Religion Law and Land Code have been used in an illegal way was a precedent for other cases - including for example Ahmadi Muslims in Almaty - he replied: "Ideally the laws are the same, and should be interpreted in the same way. But Almaty City Prosecutor's Office and other authorities are separate and independent structures from us."

Togayev of Almaty Regional Land Inspectorate gave a similar response, stating that Almaty City Land Inspectorate is independent from them, and referred Forum 18 to them.

The secretary of Almaty City Prosecutor Berik Asylov (who did not give her name) refused to put Forum 18 through to the Prosecutor on 10 August, referring Forum 18 instead to Press Secretary Gulnar Berdibekova. Asked by Forum 18 the same day whether the decision in relation to the Methodist Church applied to other communities also, Berdibekova told Forum 18 that she "cannot evaluate this over the phone".

However, Sapar Yeserkepov of Almaty City Land Inspectorate on 9 August refused to accept that the same law and interpretation applied in relation to other communities. Referring to a fine and bans on meetings imposed on Ahmadi Muslims for alleged "illegal" use of buildings like the Methodists (see F18News 24 April 2012 <http://www.forum18.org/Archive.php?article_id=1692>), Yeserkepov insisted to Forum 18: "even the court supported us and upheld the fine".

Another community banned, another Emergency Department fine

In the town of Kentau in South Kazakhstan Region, Love Presbyterian Church has been forced to close. The reason given for the late June closure announcement was that the community does not have the 50 founders willing to be identified as demanded by the Religion Law. A local Protestant, who wished to remain unnamed for fear of state reprisals, told Forum 18 on 8 August that local Protestants think that the Church intends to unite with other small churches to enable it to seek registration.

Small religious communities with fewer than 50 adult citizens willing to be identified to the authorities, which are banned under the Religion Law, have been particularly subject to bans on their meeting since the Law was passed (see eg. F18News 22 February 2012 <http://www.forum18.org/Archive.php?article_id=1671>).

The Love Church announced its decision to close after Judge Ziyash Klyshbayeva, of South Kazakhstan Region's Specialised Economic Court, on 21 June ordered the Church to stop all its activity. The reason the Judge gave was that the Church allegedly broke fire safety rules. Among the alleged violations was the lack of an automatic central fire alarm system. The Church was also ordered to pay 809 Tenge (about 30 Norwegian Kroner, 5 Euros, or 5 US Dollars) "as state duties into the local state budget".

The Church was meeting in a hall it did not own, but Judge Klyshbayeva claimed to Forum 18 on 8 August from Shymkent that, "the Church as tenant is responsible for eliminating any deficiencies in the building in terms of fire safety rules".

The verdict states that the case was brought by the Shymkent Emergency Department in the region, following a 13 June inspection of the building used by the Church. The verdict also claims that the Church in writing asked the Court to hear the case in their absence, as they agreed with the Emergency Department's decision.

Fire safety and other inspections have in the past been used as a pretext to harass religious communities the authorities dislike (see eg. F18News 23 June 2010 <http://www.forum18.org/Archive.php?article_id=1459>). This tactic was revived to impose a fine on Pastor Yevgeny Yesenkin of the Grace - Light of Love Protestant Church, in the northern Pavlodar Region. His appeal against the fine was rejected, despite irregularities in the conduct of an inspection on the part of the local Emergency Department (see F18News 30 May 2012 <http://www.forum18.org/Archive.php?article_id=1708>). (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=1352>.

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 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>.

A printer-friendly map of Kazakhstan is available at <<http://education.nationalgeographic.com/education/mapping/outline-map/?map=Kazakhstan>>.

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