

4 August 2005

KAZAKHSTAN: New "national security" law contradicts itself

By Igor Rotar, Forum 18

Kazakhstan's new "national security" requirement that all religious activity must be registered contradicts itself, Forum 18 News Service has been told. Both Professor Roman Podoprighora, a legal expert, and Aleksandr Klyushev, of the Association of Religious Organisations in Kazakhstan, note that Article 6-2 of the amended Religion Law, in Professor Podoprighora's words, "says that formal registration [or notification] is adequate, which directly contradicts Articles 4 and 9 of the same law, which says that juridical registration is compulsory!" Klyushev thinks that this is a legal loophole, and Professor Podoprighora believes that the contradiction arose because parliament did not notice it. Ninel Fokina, of the Almaty Helsinki Committee, argues strongly that the new Law is against the Kazakh Constitution. Religious minorities continue to voice deep anxiety. "It's as if they were playing chess with us," Valentina Volkova of the Hare Krishna community told Forum 18.

Kazakhstan's new law "On additions and amendments to laws of the Republic of Kazakhstan relating to national security," signed on 8 July by President Nursultan Nazarbaev, continues to cause strong criticism among international and local human rights organisations, as it substantially restricts freedom of religion or belief in the country. Professor Roman Podoprighora, a professor of jurisprudence who specialises in religion, thinks that the only real innovation in the Law is that it makes the registration of religious communities compulsory, which the professor believes will substantially "limit believers' rights".

The Law intends to forbid all unregistered religious activity, which previously had been a de facto but illegal requirement imposed by officials (see F18News 20 July 2004 http://www.forum18.org/Archive.php?article_id=365 and 30 May 2005 http://www.forum18.org/Archive.php?article_id=572). The new Law gives justification for this official attitude by banning the activity of all religious organisations which have not been registered "in the proper manner" (see F18News 15 July 2005 http://www.forum18.org/Archive.php?article_id=608). Kazakhstan thus joins two other Central Asian republics, Uzbekistan and Turkmenistan, whose Religion Laws ban the activity of unregistered religious organisations, in defiance of the international human rights commitments they have freely made.

However Professor Podoprighora notes that "there is a clear inconsistency" in the Religion Law, as amended by the new "national security" Law. According to the new version of Article 4 of the Religion Law "the activity of religious associations that have not registered in a manner prescribed by the legislation of the Republic of Kazakhstan will not be tolerated". Also, Article 9 of the Religion Law describes in detail the procedure for registering a religious association with the justice agencies.

However, Article 6-2 states that "local executive agencies in the regions (and in towns and cities that have regional significance in the republic) will carry out formal registration and re-registration of missionaries and religious groups with a small membership that do not have the characteristics of a juridical person". This is an apparently contradictory form of notification, for organisations which do not have formal legal status.

As Professor Podoprighora commented to Forum 18 on 2 August, "this article says that formal registration is adequate, which directly contradicts Articles 4 and 9 of the same Law, which says that juridical registration is compulsory!"

Article 6-2 was added to the Religion Law in draft form in December 2004, and Professor Podoprighora believes that the reason for the contradiction is that parliamentary deputies did not notice it. "The Law was drafted at great speed. And when deputies added a clause to the Religion Law specifying the need for religious organisations to register, they simply did not notice that it contradicted Article 6-2, which, following their own logic, should have been struck out," he told Forum 18

Aleksandr Klyushev, head of the Association of Religious Organisations in Kazakhstan, also noticed the contradiction, and believes that Article 6-2 could be used as a loophole. "The clause saying that they won't tolerate the activity of religious organisations that have not registered in the manner prescribed by the Republic of Kazakhstan's legislation could be interpreted as a requirement for formal registration. This is a form of notification, rather than juridical registration with the justice agencies," Klyushev told Forum 18 from the capital Astana.

Also, the new Law goes against Kazakhstan's constitution, according to Ninel Fokina, head of the Almaty Helsinki Committee. "Earlier, the deputies tried to publish a new Law on Religious Organisations that would make registration compulsory. But that draft

law was rejected by the Constitutional Council, because it contradicted the Constitution. Now the deputies have taken another route, and used amendments to alter the Religion Law," Fokina told Forum 18 from Almaty on 2 August.

In contrast to the reaction of religious minorities, legal experts and human rights organisations, the new Law has been welcomed by the clergy of the two most widespread religions in Kazakhstan – Islam and Orthodoxy. "The Law introducing amendments and additions to legislation on national security will not restrict the rights of Muslims in any way. We just welcome this initiative of the deputies," Ongar Omerbek, press secretary to the Spiritual Administration of Muslims in Kazakhstan, told Forum 18 on 2 August.

"The new Law is very useful to us. It limits the opportunities for members of sects, which just lately have proliferated greatly in Kazakhstan. Now Protestants and Jehovah's Witnesses will find it much harder to work in Kazakhstan. May God give Nazarbaev a long life. We pray that Orthodox believers in Russia will have the same freedoms as those in Kazakhstan," Vasili Zaleznyak, dean of the Almaty region of the Russian Orthodox Almaty and Astana Diocese, told Forum 18 on 2 August.

Religious minorities are facing increasing state pressure (see F18News 20 July 2005 http://www.forum18.org/Archive.php?article_id=612) and continue to voice deep anxiety about the new Law's effects. Stressing that the Law is a continuation of the previous policies, Anatoli Melnik, deputy head of the Council of Jehovah's Witnesses in Kazakhstan, told Forum 18 on 2 August that "the fact that the Law reinforces the requirement to register is very dangerous for us. For example, we have great difficulties in Uzbekistan and Turkmenistan precisely because the laws of those countries demand the registration of religious communities. But so far at least our position has not changed since the new Law was adopted in Kazakhstan. So let's wait before making final judgements," Melnik said.

Dmitri Yantsen, of the Baptist Council of Churches, has noted a recent curious hesitancy in the government's attitude. "The new Law affects our interests in a fundamental way. After all, we refuse to register on principle. But so far, strangely enough, we have not experienced a change in the state's policy on religion. In fact, around two weeks ago the public prosecutor for Stepnogor district (central Kazakhstan) brought a legal case against a Baptist pastor who refused to register his community. But just in the past few days, he suddenly withdrew the case," Yantsen told Forum 18 on 2 August, from Temirtäü in central Kazakhstan. Congregations of the Baptist Council of Churches refuse on principle to register with the state authorities in post-Soviet countries

"Of course we are very alarmed by the new Law, but so far it is still too early to speak of any real changes in state policy. We are in a sort of state of paralysis - it's as if they were playing chess with us. For example, the local authorities refused to allow us to celebrate a festival on our farm near Almaty. But we celebrated the feast anyway, and when the deputy head of the administration came to check what we were doing, we showed him that, according to our Statute, we had the right to hold events like that," Valentina Volkova (Vidia), head of Kazakhstan's Hare Krishna community, told Forum 18 from Almaty on 3 August.

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=249

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

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY