



2012 OSCE Human Dimension Implementation Meeting

Written Intervention by Kazakhstan International Bureau for Human Rights and Rule of Law, International Partnership for Human Rights and the Netherlands Helsinki Committee

Working Sessions 10-11 (Specifically selected topic: Freedom of thought, conscience, religion or belief), Monday 1 October 2012:

Violations of freedom of religion in Kazakhstan

The new “Law on Religious Activity and Religious Associations” (hereafter Religion Law) that was adopted in Kazakhstan in October 2011 bans activities by religious communities that have not been registered with authorities. At the same time, article 375 of the Administrative Code provides for administrative accountability for leading and participating in the activities of unregistered religious associations. In other words, under Kazakstani legislation, the lawful conduct of any religious activities together with other believers requires that a religious association is officially established and registered. Outside registered religious associations, freedom of religion can only be lawfully exercised by citizens individually. These provisions are in violation of Kazakhstan's international obligations in the area of freedom of religion, including in particular article 18 of the International Covenant on Civil and Political Rights.

According to the new Religion Law, religious communities that already were registered when the law entered into force must re-register within a year, i.e. by the end of October 2012. If they do not, they risk liquidation. Registration or re-registration requires a minimum of 50 signatures by members. In order to register or re-register, religious communities must also pass an “expert review,” which is aimed at determining whether their statutes, programs and other materials are consistent with the requirements of the law. Currently no clear evaluation criteria or methodology have been established for this review. Also, no time limit has been set for how long an expert review may last.

Currently there are no known statistics as to the number of religious associations that have obtained re-registration versus those that have not. Numerous cases are known, however, when so-called non-traditional Protestant communities and small Muslim communities have not been able to acquire re-registration because they have failed to compile the required number of signatures, pass the required “expert review” or complete the required process for other reasons. There are also cases when officials dealing with registration have demanded that religious associations wishing to register comply with requirements that are not provided for by law. They have for example, requested lists of the founders of religious groups, threatening to stall the re-registration process otherwise.

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The new Law on Religion has also been used to justify ongoing harassment of non-traditional religious communities and their members, such as raids on their meetings, intrusive inspections (e.g. inspections to check the facilities they are using), fines and pressure on them to stop their activities.

- At the end of May 2012, a Grace Presbyterian Church based in the city of Karaganda received a negative decision on the “expert review” to which it was subjected after submitting an application for re-registration to the regional department of the Agency for Religious Affairs (ARA). Previously the “experts” who gave this opinion had evaluated the community positively. They did not provide their opinion in writing, but only told church representatives verbally about their conclusions. The church’s lawyer noted that the community cannot obtain registration unless the decision is changed. The case was pending complementary review by the central ARA.¹ At the time of writing, the church had not yet received any information about the outcome of this review.
- Also at the end of May, local authorities in the city of Taldykorgan forced a Methodist church to “voluntarily” close down after its facilities were inspected and the wife of the church’s pastor was fined some 8000 Tenge (about 40 EUR) for allowing religious services to take place in her home.² She was accused of using land for purposes other than those for which it is intended (article 253 of the Administrative Code), although the Law on Religion does allow religious meetings to take place in “dwellings” “if necessary” and on condition that “the rights and interests of nearby residents” are respected (article 7.2). At the time of its announcement to close down, the church was officially registered, as it had obtained registration in 2001. Its leaders feared, however, that they would not be able to compile the 50 signatures required for re-registration under the new Law on Religion and agreed to the closure as they wanted to avoid further problems with law enforcement authorities.³ After the pastor’s wife already had paid the fine she was given, officials admitted that it had been “unlawful.”⁴
- On 20 March 2012, local officials in the village of Kasymbek in the Almaty region summoned L. Duzgembayeva, a local resident and member of the evangelical New Life church, to a local school facility. Here village elderly and the school principal asked her personal questions about her religious affiliation and threatened her, all in the presence of the head of the rural district of which the village forms part. In particular, they asked her how she, as an ethnic Kazakh, could have adopted a new faith and why she had allowed the New Life church to register its legal address at her home address. They threatened to evict her from the village and turn the residents against her as punishment for this.

No effective measures are typically taken in response to appeals and complaints submitted to prosecutor offices and other relevant authorities about unlawful actions targeting religious communities, to hold those responsible for such actions accountable or to prevent new cases of this kind.

Recommendations to the authorities of Kazakhstan:

- Revise the 2011 Religion Law with a view to ensuring that it is consistent with provisions protecting freedom of religion under Kazakhstan’s Constitution, as well as under the ICCPR and other international human rights instruments.

- Put an end to harassment of non-traditional minority religious communities, take effective measures in response to complaints about unlawful actions by officials against individual religious communities and believers, and promote religious tolerance.

¹ Forum 18, "The church will be closed down anyway," 30 May 2012, at http://www.forum18.org/Archive.php?article_id=1708

² Forum 18, "Ahmadi Muslims closed down everywhere, Methodist congregation next?," 24 April 2012, at http://www.forum18.org/Archive.php?article_id=1692

³ See previous footnote.

⁴ Forum 18, "'Unlawful' fine – but will state do anything about it?," 13 August 2012, http://www.forum18.org/Archive.php?article_id=1731