

# RELIGIOUS FREEDOM CONCERNS IN KAZAKHSTAN

STATEMENT by the EUROPEAN ASSOCIATION OF JEHOVAH'S CHRISTIAN WITNESSES

For the OSCE Human Dimension Implementation Meeting, Warsaw, 22 September to 3 October 2014

Since December 2012, Kazakhstan authorities have carried on a targeted campaign against Jehovah's Witnesses and the peaceful practice of their religious faith.

- More than fifty (50) Jehovah's Witnesses have been **arrested, convicted**, and ordered to pay fines of more than EUR 750 merely for speaking about their religious beliefs to relatives, friends, and neighbours.
- Three foreign citizens have been convicted of "missionary activity" and ordered **deported**. The deportation decisions for all three foreigners are final.
- **On a positive note**, for more than a year now all editions of *The Watchtower* and *Awake!* have been approved by the Agency of Religious Affairs and since **1 January 2014** there has been no banning of other publications for import to Kazakhstan.

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## Restrictions on Freedom of Religion

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Religious freedom is primarily restricted by the application of the Law "On Religious Activity and Religious Associations" (2011 Religion Law) adopted on 11 October 2011. The law imposes, *inter alia*:

- A ban on the public distribution of religious literature outside places of worship and other places authorized by the local authorities, even if the literature has passed religious expert study.—Article 9(2)
- The requirement that all religious literature must first be approved by a religious expert before it can be used or imported into Kazakhstan.—Articles 6(1) and 9(3).
- The prohibition on so-called unregistered "missionary activity."—Articles 1(5) and 8(1).

The 2011 Religion Law, as applied, has served as a means for government officials to significantly restrict and violate human rights provisions guaranteed by both the Constitution of the Republic of Kazakhstan and the International Covenant on Civil and Political Rights (ICCPR).

### *Censorship and banning of religious literature*

Article 20 (1) of the Kazakhstan Constitution states that "censorship is prohibited." However, according to Kazakhstan's 2011 Religion Law, in Articles 6(1) and 9(3), it is illegal to import any literature into Kazakhstan without first obtaining approval of that religious literature by the Agency on Religious Affairs (ARA) and submitting it to an "expert study." The requirement that a religious organization must obtain approval from the ARA on the content of a religious publication before it can be imported for use by the organization members is a violation of the right to freedom of religion and freedom of expression guaranteed by Articles 18 and 19 of the ICCPR.

In three decisions dated 31 January 2013, the ARA refused permission to import 10 religious publications, claiming that the publications contained beliefs of Jehovah's Witnesses that the ARA concluded could offend members of other churches and that the publications discouraged secular education and work. In fact, the publications contained no such statements and it is widely known that Jehovah's Witnesses encourage a balanced view towards education and secular work. On 3 July 2013 the Astana Economic Court rejected an appeal, upholding the ARA's ban. On **4 September 2014** the Supreme Court of Kazakhstan by a panel of three Judges denied granting a revision hearing by a full Supreme Court Supervisory panel of Judges.

On 31 December 2013 the ARA refused permission to import the booklet *Examining the Scriptures Daily—2014*, which Jehovah's Witnesses use each day to consider the practical application of a

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Bible scripture during their personal and family worship. On **3 June 2014** the Astana Economic Court rejected the appeal and upheld the ARA's ban of four publications. An appeal is pending.

In the 14 publications of Jehovah's Witnesses the ARA has banned, virtually all of the passages to which the ARA has objected are either direct quotations from the Bible or are the Witnesses' sincere explanation of what they understand these passages from the Bible to mean.

In violation of the prohibition on religious discrimination in Article 26 of the ICCPR, the ARA has adopted two contradictory and discriminatory approaches. For Jehovah's Witnesses, it has taken an extreme approach and banned from import 14 of their publications because it takes exception to their religious beliefs in those publications. However, the ARA freely permits the import of publications of state-approved Islam and the Russian Orthodox Church.

### Abuses of Freedom of Religion

#### *Police raids on religious meetings*

Starting in January 2013, police have raided at least nine religious meetings of Jehovah's Witnesses in the cities of Esil, Karazhal, Karabalyk, Kentau, Makinsk, Sarykol, Aktau, Bobrovka and Kurchatov despite the fact that Jehovah's Witnesses have legal registration in each of these regions of Kazakhstan. For example:

**Karabalyk, Kostanay Region.** On 6 April 2013, approximately 40 of Jehovah's Witnesses gathered for religious worship at the house of Eduard and Irina Malykhin, a married couple. Without warrant or permission, 20 law enforcement officials entered and interrupted the religious service. The police questioned and filmed everyone in attendance. They searched the house and seized the Bibles and religious literature of some in attendance as well as the Malykhins' entire personal religious library. In total, more than 900 religious publications were seized. The raid lasted for three hours. The Malykhins and two of their guests were later charged and convicted of missionary activity simply for participating in that religious meeting. The Malykhins filed a complaint with the CCPR on 29 August 2013, which was communicated to Kazakhstan on 12 December 2013.

There have been no police raids of the religious services of Jehovah's Witnesses since **31 January 2014**. Nonetheless, since that date, there have been **three incidents** where police detained and questioned Jehovah's Witnesses immediately after the conclusion of their religious services. This happened in the cities of **Arkalyk, Kostanay Region (2 February 2014)**; **Ush Tobé, Almaty Region (7 and 13 April 2014)**; and **Merke, Zhambyl Region (25 April 2014)**.

- During the **2 February 2014** incident in Arkalyk, the police brought a bus to the site of the religious service and took all persons in attendance to the police station for questioning. Their goal is to create the impression among relatives, friends, neighbours and others who observed the police actions that the religious activity of Jehovah's Witnesses is illegal and is to be avoided.

#### *Arrests and conviction of Kazakhstan citizens for "missionary activity"*

In letters dated 28 March 2013 and 16 May 2013, Kazakhstan's state Agency on Religious Affairs (ARA) directed the Christian Center of Jehovah's Witnesses to instruct the more than 17,000 Jehovah's Witnesses that they must "comply" with the total ban on unregistered "missionary activity."

The ARA claims that without first obtaining registration as "missionaries" it is illegal for Jehovah's Witnesses to share their Bible-based beliefs with friends, neighbours, and other interested persons and to participate in religious services at their registered places of worship.

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To date, more than fifty (50) Jehovah's Witnesses have been arrested and convicted of "missionary activity" under Article 375(3) of the RK CAV. All have been ordered to pay the maximum fine which is now 185,200 tenge (EUR 760). Several Witnesses have been arrested and convicted twice, and on their second conviction ordered to pay twice as much per person (EUR 1520). Complaints have been filed with the United Nations Human Rights Committee (CCPR) on behalf of the first 35 Jehovah's Witnesses convicted of "missionary activity."

### *Arrests, conviction, and deportation of foreign citizens for "missionary activity"*

A conviction for "missionary activity" is particularly harsh for foreign citizens. Article 375(3) of the RK CAV prescribes that a foreign citizen is liable for the maximum fine of 185,200 tenge (EUR 760) and in all cases is subject to automatic deportation. Since November 2013, three foreign citizens who are Jehovah's Witnesses have been ordered deported. For example:

**Yuriy Toporov (citizen of Russia and human rights defender):** Mr. Toporov has lived in Kazakhstan for 11 years and has been married to a Kazakhstan citizen for the past seven years. He is a legal representative of the "Christian Centre of Jehovah's Witnesses" located in Almaty and is well known to senior Kazakhstan officials.

- On 23 November 2013 Mr. Toporov was arrested in the city of Almaty while giving a religious discourse to a gathering of Jehovah's Witnesses at their regular place of worship. A large group of police, equipped with video cameras, arrived at the place of worship just minutes after Mr. Toporov began his discourse and focused their investigation solely on him. Obviously, the police raid was organized in advance with the sole intention of arresting Mr. Toporov.
- On **3 March 2014** the Specialized Administrative Inter-district Court of the City of Almaty convicted Mr. Toporov of "missionary activity" and ordered his deportation from Kazakhstan. On **15 April 2014** the Almaty City Court denied his appeal. To avoid imprisonment pending his deportation, Mr. Toporov and his wife had no choice but to leave Kazakhstan in **May 2014**. They currently reside in Russia.

On **31 January 2014** five Special Rapporteurs and the Independent Expert on Minority Issues of the United Nations Human Rights Council sent a joint letter to Kazakhstan calling on it to stop the arrests of Jehovah's Witnesses for "missionary activity", the banning of their religious publications, and the raids of their religious meetings (see below). Unfortunately, that communication has largely been ignored by Kazakhstan.

### **Positive Developments in Respect for Religious Freedom**

- Concerning the banning of publications, for more than one year now all editions of *The Watchtower* and *Awake!* have been approved by the Agency of Religious Affairs and since **1 January 2014** there was no banning of other publications for import to Kazakhstan.
- Regarding cases of alleged "missionary activity," there has been a slight decrease in arrests and convictions. During 2013, a total of 35 Jehovah's Witnesses were convicted of "missionary activity." During the first six months of 2014, 15 Jehovah's Witnesses were convicted of missionary activity.

*Jehovah's Witnesses respectfully request the government of Kazakhstan to stop persecuting the Witnesses for so-called "missionary activity," prevent illegal police interference with Jehovah's Witnesses' right to peaceful assembly, cease imposing bans on the religious publications of Jehovah's Witnesses, and fulfill its obligations under international law to guarantee the right to freedom of religion, expression, assembly and association.*