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AZERBAIJAN: Imprisoned pastor's lawyer "optimistic" over appeal

By Felix Corley, Forum 18 (https://www.forum18.org)

The lawyer for imprisoned Baptist pastor Zaur Balaev is hopeful about his appeal, which began at Sheki Appeal Court today (6 September) and resumes on 19 September. "Of course I'm optimistic," Gazalfar Rzaev told Forum 18 News Service. Also hopeful that the two year sentence imposed on charges of assaulting five police officers will be overturned was Ilya Zenchenko, head of Azerbaijan's Baptist Union. But he fears Balaev may not be fully exonerated. "This is a dilemma for the court. Clearing Balaev would mean incriminating the police officers who falsely testified against him," Zenchenko told Forum 18. The State Committee for Work with Religious Organisations insists the prosecution had nothing to do with Balaev's religious affiliation but refused to explain why the verdict speaks of Balaev's "illegal religious activity" when the concept does not exist in Azerbaijani law. "This case has given a bad impression of Azerbaijan around the world," an official of the OSCE in Baku told Forum 18.

As the appeal lodged by imprisoned Baptist pastor Zaur Balaev began today (6 September) at the Appeal Court in the northern town of Sheki [Saki], his lawyer Gazalfar Rzaev expressed hope that the pastor's two year prison sentence will be overturned. "Of course I'm optimistic," Rzaev told Forum 18 News Service on the return journey from Sheki to the capital Baku after the one-hour hearing. "We believe Balaev should be freed – at least we hope he will be." He said the appeal is set to continue on 19 September. Balaev and his fellow church members insist the accusations that he attacked and wounded five police officers who raided the church on 20 May and damaged their car are fabricated.

Also guardedly hopeful was Ilya Zenchenko, head of Azerbaijan's Baptist Union. "It is positive that the original witnesses will be summoned again," he told Forum 18 from Baku on 6 September. "The appeal court will thus be conducting its own review of the case." He added that he believes international attention to Balaev's case will also help.

Although confident that the sentence will be reduced, Zenchenko fears that Balaev will not be totally cleared. "This is a dilemma for the court. Clearing Balaev would mean incriminating the police officers who falsely testified against him," he told Forum 18. "Maybe they will try to free him in some way without punishing the police officers. But we will fight to clear Zaur's name of the false accusations." Zenchenko said they are prepared to take the case all the way to the Azerbaijani Supreme Court and even to the European Court of Human Rights in Strasbourg.

Also following the case "closely" has been the Baku office of the Organisation for Security and Co-operation in Europe (OSCE). "We have been in contact with the authorities about this case," human rights officer Andreas Busch told Forum 18 from Baku on 6 September. "This case has given a bad impression of Azerbaijan around the world."

However, the State Committee for Work with Religious Organisations insists that the case against Balaev was a purely criminal matter. "He resisted the police – that's why he's in prison," Kunduz Ismailov told Forum 18 from Baku on 6 September. "It is not a religious issue at all – it's purely a matter between Zaur Balaev and the police." Told that the verdict at his 8 August trial noted that he was conducting "illegal" religious meetings in his home, a concept that does not exist in Azerbaijani law, Ismailov declined absolutely to discuss what constitutes an "illegal" religious meeting.

The 44-year-old Balaev led a Baptist congregation in his home village of Aliabad in the far north-west of Azerbaijan, close to the border with Georgia. Like most of the population of the village, he is from the Georgian-speaking Ingilo minority. The congregation has repeatedly over many years had its applications for legal status refused. It has faced years of harassment from the local authorities, backed up by some of the villagers and the imam of the village's Juma Mosque, Darchin Mamedov.

Balaev was arrested on 20 May after police raided what they claimed was an "illegal" religious service. Police alleged he had attacked them and he was prosecuted under Article 315, Part 1 of the Criminal Code, which punishes the application or threat of application of violence, including to a state representative when he or she is carrying out official duties. He was sentenced to two years in prison by a court in the regional centre of Zakatala [Zaqatala] on 8 August after a trial that was repeatedly delayed without explanation (see F18News 9 August 2007 http://www.forum18.org/Archive.php?article_id=1005). Balaev appealed against the sentence on 15 August.

The verdict, of which Forum 18 has seen the text, makes clear the extent of the religious motivation for the prosecution of Balaev. It

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begins with the assertion that he was conducting illegal religious activity in his home by gathering fellow-believers for worship "without appropriate authority". It also alleged that loud music emerged from the services, disturbing neighbours in the village, something church members deny. The verdict says that the police arrived at his home on 20 May for a "warning chat".

The verdict points out that Balaev's Baptist congregation functions without state registration, which appears to be irrelevant to the case against him. It also quotes what it says was testimony given during the investigation by Mamedov, the village imam, who was questioned as a "witness" although he was not present at Balaev's house on 20 May. The verdict quoted Mamedov as complaining of Balaev's "illegal propaganda activity". As the "responsible imam for religious questions in the village", Mamedov had several times summoned Balaev to the village council to warn him about his activity. He and another village resident had also gone to the police about Balaev, the verdict reported, and the police had then launched the raid.

However, reached in the village on 6 September, Mamedov distanced himself from the case against Balaev. He told Forum 18 he had been questioned once in the case but denied that his complaints had prompted the 20 May raid on Balaev's church. "We don't get involved in such things," he claimed to Forum 18. "It was the police who took action, not us." He admitted that he had complained repeatedly about Balaev's religious activity. "He spread dissension in the village. He is against Islam, the prophet and the Koran," he maintained. "I complained for eight years. But no-one listened."

Rzaev, Balaev's lawyer, insisted to Forum 18 that the original trial in Zakatala was flawed. "There were many falsifications at the first trial," he maintained. "The court should never have accepted the testimony of the policemen and this is what we put forward in our appeal. We believe our contention will be accepted." He said the defence had insisted on a judicial investigation into the whole case, which Sheki Appeal Court had granted.

Zenchenko expressed disappointment that Balaev was not brought to court for the 6 September appeal hearing, though he is due to be brought for the 19 September hearing. "Zaur's wife Selminaz, his children, family and friends were hoping to be able to see him today," he noted sadly. Balaev remains in the investigation prison in the western city of Gyanja [Gäncä].

Balaev has had support from other Christian leaders in Azerbaijan, including two Seventh-day Adventists, a Lutheran, and leaders from the Greater Grace, Baptist, Cathedral of Praise, Star in the East Pentecostal and Nehemiah churches.

Zenchenko of the Baptist Union added that the church's latest attempt to gain state registration has again stalled. He said he took the church's application on 25 July to Najiba Mamedova, one of Zakatala's two state notaries, but she again refused to approve it. Without the signature of the notary the application cannot go further. On 27 July Zenchenko went with the lawyer Rzaev to the second notary. "She also refused to approve the application," Zenchenko told Forum 18. "She was put out by the presence of a lawyer, left her office – I believe to consult with superiors - and the only reason she gave was that she couldn't deal with the church's papers."

Zenchenko pointed out that this has been the repeated pattern over many years. "The notaries have no legal basis to refuse – they should do it." He said the church is preparing to take the notaries to court to try to uphold its rights.

Although many religious communities in Azerbaijan have been denied legal status on arbitrary grounds, the Aliabad Baptist church is the community that Forum 18 believes holds the record for the community that has been denied registration over the longest period.

Ismailov of the State Committee for Work with Religious Organisations was unwilling to discuss the repeated denials of registration to the Aliabad church. "They should appeal to us in writing," he told Forum 18. Told that the church has repeatedly appealed to the local and national authorities in vain, he repeated his earlier assertion and put the phone down.

The telephone of Nizami Mamedov, the regional official of the State Committee in northern Azerbaijan whose jurisdiction includes Aliabad, went unanswered at his office in Agdash on 6 September. (END)

For a personal commentary, by an Azeri Protestant, on how the international community can help establish religious freedom in Azerbaijan, see http://www.forum18.org/Archive.php?article_id=482

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/Archive.php?article_id=92

More coverage of freedom of thought, conscience and belief in Azerbaijan is at http://www.forum18.org/Archive.php?query=&religion=all&country=23&results=50

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.

A printer-friendly map of Azerbaijan is available at

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http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=azerba

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY

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