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ARMENIA: Two new imprisonments as Strasbourg again fines government

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

Two young men who refused military service and military-controlled alternative service were imprisoned in November, bringing the current total to 31, all of them Jehovah's Witnesses, Forum 18 News Service has learnt. Anania Grigoryan and Artsrun Khachatryan were sentenced in the summer, but were imprisoned only after their appeals failed. A further 15 already convicted are likely to be imprisoned if their appeals fail. The new imprisonments come as Armenia has been fined for the fourth time by the Strasbourg-based European Court of Human Rights in a conscientious objection-related case. For the first time in such cases, Armenia's European Court Judge, Alvina Gyulumyan, did not dissent from the judgment. A judge in Yerevan today (3 December) postponed the handing down of a sentence in the criminal trial of conscientious objector Vartkes Sahakyan, saying he needed time to study the latest Strasbourg judgment.

A judge has today (3 December) postponed the handing down of a sentence in the criminal trial of conscientious objector Vartkes Sahakyan, Jehovah's Witnesses told Forum 18 News Service. Judge David Balayan said he was postponing the decision to allow him time to study the latest finding against Armenia in the European Court of Human Rights (ECtHR) on conscientious objector cases. Yet despite the latest ECtHR fine imposed on the Armenian government, prosecutions continue. Two further conscientious objectors were imprisoned in November after losing their second appeals, bringing the number of prisoners to 31. All are serving sentences of two to three years' imprisonment. A further 15 already convicted are likely to be imprisoned if their appeals fail.

Judge Balayan of Davatashen-Ajapnyak Court in the north of the capital Yerevan told Sahakyan that he was postponing his verdict in the case until he had a chance to read the 27 November ECtHR judgment in Armenian translation.

On 27 November, the Strasbourg-based ECtHR – in its fourth decision against Armenia in conscientious objector cases – found that Armenia had violated the rights of 17 Jehovah's Witness conscientious objectors. Forum 18 notes that for the first time in such cases, Armenia's European Court Judge, Alvina Gyulumyan, did not dissent from the judgment.

Jehovah's Witnesses told Forum 18 that every prisoner convicted since the ECtHR's landmark July 2011 judgment in favour of former conscientious objector prisoner Vahan Bayatyan will lodge a similar case to Strasbourg. Fourteen have already done so, with a further ten preparing applications.

"Nothing else has moved the Armenian government to improve the situation, so we are hoping repeated European Court judgments will," one Jehovah's Witness who was involved in the recent case told Forum 18 on 3 December.

No civilian alternative service

Although Armenia committed itself on joining the Council of Europe to introduce a civilian, non-military alternative service by January 2004, it failed to do so. The Alternative Service Law - adopted in 2003 and amended in 2004 and 2006 - leaves alternative service under Defence Ministry oversight, making it unacceptable for most conscientious objectors.

Like all the other Jehovah's Witness conscientious objectors, Sahakyan is on trial under Criminal Code Article 327, Part 1, which punishes evasion of the call-up to military or alternative service. The maximum sentence under this article was increased to three years' imprisonment in December 2005.

Armenia has repeatedly claimed that the current situation is in full compliance with its international human rights commitments. On 31 January 2012, in response to a joint letter of concern over imprisoned conscientious objectors from four United Nations human rights rapporteurs, the Armenian authorities insisted to the United Nations that "Armenia has fully complied with its commitments within three years of accession as promised". It dismissed the ECtHR findings against it.

Currently, the allegedly "civilian" alternative service is supervised by the Military Police under regulations laid down by the Defence Ministry. Conscientious objectors are ordered to wear uniform provided by the military and fed by the military. All breaches of

orders or regulations are dealt with by the Military Prosecutor's Office. The duration of "alternative" service, at 42 months, is the longest in the world. Conscientious objectors and human rights defenders do not see this as a genuinely civilian alternative service (see F18News 2 May 2007 http://www.forum18.org/Archive.php?article_id=949).

Despite the government's claims that it fulfils human rights obligations, Armenia's failure to free imprisoned conscientious objectors and introduce a genuinely civilian alternative to military service has repeatedly been condemned by international organisations of which the country is a member. In 2012 alone, condemnation came from the Parliamentary Assembly of the Council of Europe (PACE) and the United Nations Human Rights Committee (see F18News 20 September 2012 http://www.forum18.org/Archive.php?article_id=1745).

Imprisonment after appeal

Armenia has changed its policy this year, after discussions with Jehovah's Witnesses representatives. It now imprisons conscientious objectors only after both their appeals fail (in the Appeal Court and the Cassation Court), not after criminal cases are instituted and not after individuals are convicted in a lower court. Forum 18 notes that this has brought down the number of prisoners from about 70 at any one time until late 2011 to 31 today. However, the number of conscientious objectors convicted and sentenced under Criminal Code Article 327, Part 1 is rising. Should their appeals fail it is likely they will be imprisoned.

The two latest prisoners - Anania Grigoryan (who received a 24-month sentence on 28 June) and Artsrun Khachatryan (who received a 30-month sentence on 10 July) - were both imprisoned after losing their cases at the Appeal Court and Cassation Court. Grigoryan was imprisoned at Nubarashen prison near Yerevan on 15 November. Khachatryan was imprisoned in the same prison on 26 November.

The other 29 prisoners are being held at the prisons in Erebuni in Yerevan and Kosh near Ashtarak in western Armenia.

Of the 15 young men already convicted but awaiting appeal hearings, two were sentenced in November. Martiros Yesayan received a 30-month sentence on 8 November. Mushegh Galstyan received a two-year sentence on 15 November.

Latest Strasbourg judgment

The ECtHR issued its latest judgment on 27 November in the case of Khachatryan and Others v. Armenia (application no. 23978/06). Nineteen Jehovah's Witnesses who accepted the government's alternative service in 2004 changed their minds and left their service in May and June 2005 after realising they were under military control, thus offending their consciences. Criminal proceedings were brought against them and seventeen were held in detention (the other two had to sign statements not to leave the area). Although charges were later dropped and they were released after several months, they complained that they had been detained for an act which had not constituted an offence at the time.

In its judgment, the ECtHR ruled in favour of 17 of the 19, finding that their right to liberty and security, as well as their right to compensation for unlawful detention had been violated. The 17 were each awarded 6,000 Euros (3 million Armenian Drams, 45,000 Norwegian Kroner or 8,000 US Dollars) compensation from the Armenian government. The government was also required to pay a total of 10,000 Euros in costs for all the applicants. Unless either side appeal against the ruling, it will become final three months after it was handed down (<http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-114785>).

"No official position" from Human Rights Ombudsperson

Tatevik Khachatryan, the official in the office of Armenia's Human Rights Ombudsperson who handles conscientious objection issues, told Forum 18 on 3 November that Ombudsperson Karen Andreasyan holds "no official position" on the continued imprisonment of conscientious objectors.

Khachatryan could not recall any public statement by Andreasyan on the issue. "He decides what he will speak out on," she told Forum 18.

She repeatedly refused to say whether the Ombudsperson believes that the current conscientious objector prisoners should or should not be imprisoned.

However, she denied that this meant Andreasyan has done nothing to protect the rights of imprisoned conscientious objectors. "He received many individual complaints on this and has responded to them all properly," Khachatryan insisted. "He has also met Jehovah's Witness representatives and tried to mediate with government officials."

Khachatryan added that Andreasyan has given the government his comments on the proposed amendments to the Alternative Service Law. However, she repeatedly refused to say whether the Ombudsperson believes the current Law does or does not meet Armenia's international human rights commitments.

"Vague" draft amendments

The Justice Ministry has long been drafting amendments to the Alternative Service Law, with input from the Defence Ministry and other state agencies. The 2011 draft amendments were the subject of two highly critical legal opinions – by the Organisation for Security and Co-operation in Europe (OSCE) in September 2011 and the Council of Europe's Venice Commission in December 2011 (see F18News 1 February 2012 http://www.forum18.org/Archive.php?article_id=1661).

The Justice Ministry later changed the proposed amendments, giving a new draft to various Armenian organisations in October 2012. Article 14, Part 2 of the draft amendments reads: "Supervision of performance and organisation of alternative labour service is carried out by corresponding state government bodies empowered by the Republic of Armenia." Jehovah's Witnesses complain that this crucial question for them – will the Defence Ministry have any control over alternative labour service – thus remains unresolved.

The draft amendments seen by Forum 18 would reduce by six months the term for those doing "alternative labour service" to 36 months – compared to 30 months for non-combat military service and two years for military service. However, Jehovah's Witnesses say the length is less of a concern. "What is crucial for us is whether the military control the alternative service, and whether the individual is confined to the place of service or not," one Jehovah's Witness told Forum 18 from Yerevan on 3 December. "The draft is vague."

Lt-Col. Sedrak Sedrakian, the head of the legal department of the Defence Ministry, said that the draft amendments are in the hands of First Deputy Justice Minister Grigor Muradian. "They asked our views and we gave them," he told Forum 18 from Yerevan on 3 December. "We wrote that we're not against the amendments, and gave our comments."

Lt-Col. Sedrakian insisted that the alternative labour service will be under the supervision not of the Defence Ministry but the Health and Social Protection Ministries. However, Forum 18 could not find such a provision on the draft amendments it has seen.

Forum 18 was unable to reach anyone at the Justice Ministry in Yerevan on 3 December prepared to comment on the draft amendments or the continued imprisonment of conscientious objectors.

Gevorg Kostanyan, the Armenian government agent to the ECtHR who is the country's military prosecutor, was unavailable each time Forum 18 called on 3 December. His assistant took Forum 18's number but he did not call back. (END)

More coverage of freedom of thought, conscience and belief in Armenia and the unrecognised entity of Nagorno-Karabakh is at <http://www.forum18.org/Archive.php?query=&religion=all&country=21>

A personal commentary, by Derek Brett of Conscience and Peace Tax International, on conscientious objection to military service and international law in the light of the European Court of Human Rights' July 2011 Bayatyan judgment is at http://www.forum18.org/Archive.php?article_id=1597.

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 Armenia is available at <http://education.nationalgeographic.com/education/mapping/outline-map/?map=Armenia>.

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