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TAJIKISTAN: Conscientious objection appeal to UN Human Rights Committee?

By Mushfig Bayram, Forum 18 (<https://www.forum18.org>)

Prisoner of conscience Daniil Islamov is preparing to appeal for the last time to Tajikistan's Supreme Court against a six-month jail term for refusing compulsory military service. If this appeal is rejected, he is likely to appeal to the UN Human Rights Committee.

Jehovah's Witness prisoner of conscience Daniil Islamov is preparing to appeal for the last time to Tajikistan's Supreme Court against a six-month jail term imposed in October 2017 for refusing compulsory military service. The Supreme Court rejected his first appeal on 11 January.

The government and the Supreme Court have not ordered prisoner of conscience Islamov's release, despite the United Nations (UN) Working Group on Arbitrary Detention on 5 October publicly stating that Tajikistan should release him "immediately" (see below).

If the Supreme Court rejects this final appeal, prisoner of conscience Islamov is likely to file a complaint with the UN Human Rights Committee (see below).

In Yavan Prison with fellow-prisoner of conscience?

Prisoner of conscience Islamov is thought to be being held in Yavan Prison in the south-western Khatlon Region, Jehovah's Witnesses told Forum 18 on 27 February.

This is the same prison prisoner of conscience Bakhrom Kholmatov is held in. Protestant Pastor Kholmatov was jailed for three years in July 2017 for allegedly "singing extremist songs in church and so inciting 'religious hatred'". He decided in November not to continue appealing against his jail term. The government threatened family members, friends, and church members with reprisals if they revealed any details of the case, trial, or jailing (see F18News 5 December 2017 http://forum18.org/archive.php?article_id=2337).

If prisoner of conscience Islamov is in Yavan Prison, his address is:

Tajikistan

Yavan

Ispravitelno-Trudovaya Koloniya, yas. 3/6

6th otryad

Daniilu Ruslanovichu Islamovu

Prisoner of conscience's jailing upheld

Judges Jamshid Akhmadzoda and Abdukahor Tagozoda of the Military Collegium of the Supreme Court on 11 January rejected the appeal of Daniil Ruslanovich Islamov (born 31 January 1999). The Judges "unilaterally rejected Islamov's appeal to acquit him and release him from prison," Jehovah's Witnesses told Forum 18 on 9 February. "Inexplicably, the judges conducted the case in their private chambers without a hearing and upheld Islamov's conviction on the false charge of evading military service."

Why?

Prisoner of conscience Islamov was forcibly conscripted in April 2017, despite health problems preventing him doing military service even if he wanted to do it. After refusing to serve in the army, he was detained in a military unit. Colonel Musa Odiazoda,

Deputy Chief of the General Staff and Head of the Organisation and Mobilisation Department, told Islamov's mother that he cannot do alternative service because there is no domestic legal provision for this (see F18News 31 August 2017 http://www.forum18.org/archive.php?article_id=2312).

Colonel Odinzoda has not answered Forum 18's questions about the case. The UN Human Rights Committee has twice urged Tajikistan to recognise the right to conscientious objection and to provide alternative civilian service. But the government has failed to do this. Human rights defenders in Tajikistan, such as the Office of Civil Freedoms, have also repeatedly called for alternative service to be introduced (see F18News 31 August 2017 http://www.forum18.org/archive.php?article_id=2312).

Prisoner of conscience Islamov was charged under Criminal Code Article 376, Part 1 ("Evasion by an enlisted serviceman of fulfilment of military service obligations by way of inflicting on oneself injury (self-mutilation) or evasion by simulation of sickness or by other deception"). Yet Lieutenant Colonel M. Kulmakhmadov, commander of the military unit Islamov was held in, refused to say to Forum 18 what exactly the prisoner of conscience had done which could be said to break this article of the Criminal Code (see F18News 31 August 2017 http://www.forum18.org/archive.php?article_id=2312).

On 5 October 2017 the UN Working Group on Arbitrary Detention publicly stated that Tajikistan should release prisoner of conscience Islamov "immediately". The Working Group's Advanced Edited Opinion (A/HRC/WGAD/2017/43) finds that Tajikistan has contravened the International Covenant on Civil and Political Rights. "The Working Group considers that, taking into account all the circumstances of the case, the appropriate remedy would be to release Mr. Islamov immediately and accord him an enforceable right to compensation and other reparations, in accordance with international law" (see http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session79/A_HRC_WGAD_2017_43_EN.pdf).

Yet on 13 October 2017 Qurghonteppa Military Court, in Khatlon Region, sentenced prisoner of conscience Islamov to six months' jail. The 13 October decision noted that sentence started from that date, so his sentence ends on 12 April 2018 (see F18News 20 October 2017 http://www.forum18.org/archive.php?article_id=2327).

Prisoner of conscience Islamov appealed against his conviction to the Supreme Court on 23 October 2017. On 28 November, the Supreme Court rejected his appeal, but ruled to send his case back to the first instance Court for "correction of mistakes in the decision". They did not specify what these "mistakes" were (see F18News 5 December 2017 http://www.forum18.org/archive.php?article_id=2337).

Final Supreme Court appeal, appeal to UN Human Rights Committee?

On 20 February 2018, Islamov's lawyer filed a final cassation appeal to the Supreme Court against its 11 January decision, Jehovah's Witnesses told Forum 18 on 21 February.

Judge Akhmadzoda, one of the judges who made the 11 January decision, told Forum 18 on 21 February that the Court will consider the cassation appeal. Forum 18 asked him: why Islamov, who is willing to do alternative service, must suffer because Tajikistan does not offer this; and why the Court regarded him as a military serviceman despite his not taking a military oath. Judge Akhmadzoda replied: "I cannot comment on that." He then refused to talk more to Forum 18.

"If the Court rejects this final appeal, Daniil Islamov will have no further legal remedies available within Tajikistan and is likely to file a complaint with the UN Human Rights Committee," Jehovah's Witnesses stated.

"The will of the people" ?

Deputy Murodullo Davlatov, a member of Parliament's Lower Chamber and Deputy Head of its International Relations Committee, claimed to Forum 18 on 15 February that "the people of Tajikistan do not want alternative service, and Parliament represents the will of the people."

Tajikistan has never held an election found to be free and fair by Organisation for Security and Co-operation in Europe (OSCE) Election Observation Missions (see Forum 18's Tajikistan religious freedom survey http://www.forum18.org/archive.php?article_id=2138).

Asked whether prisoner of conscience Islamov and human rights defenders do not represent people of Tajikistan, and whether Islamov is entitled to his human rights, Deputy Davlatov replied: "He violated the law, which is why he was arrested".

Jehovah's Witnesses are banned in the country, possibly because of their pacifist beliefs and refusal to do compulsory military service (see Forum 18's Tajikistan religious freedom survey http://www.forum18.org/archive.php?article_id=2138).

Concurrent freedom of religion and belief violations

Deputy Davlatov has also backed January Religion Law changes allowing the state to restrict freedom of religion or belief on

illegitimate grounds, increase religious communities' reporting obligations, require state approval for all imams, and increase state control on religious education. The new restrictions are primarily aimed at Muslims (see F18News 19 February 2018 http://www.forum18.org/archive.php?article_id=2354). Tajikistan has claimed to have closed almost 2,000 mosques in 2017. Officials claimed they were closed at the request of local residents, but have not been able to explain why they only allow mosques with a capacity far below the possible numbers of worshippers (see F18News 26 February 2018 http://www.forum18.org/archive.php?article_id=2356). (END)

More coverage of freedom of thought, conscience and belief in Tajikistan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=31>.

For more background see Forum 18's Tajikistan religious freedom survey at http://www.forum18.org/Archive.php?article_id=2138.

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.

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