

6 October 2020

AZERBAIJAN: 34 freedom of religion cases pending at ECtHR

By Felix Corley, Forum 18

Pending at the European Court of Human Rights are 34 known cases relating to violations of freedom of religion or belief, involving 61 individuals and 5 communities. A decision is expected on 22 October in the case of Nina Gridneva, fined for offering religious literature on the street. Other cases cover punishments for leading mosque prayers and holding religious meetings, refusing compulsory military service on grounds of conscience and the state's religious censorship.

In September, the European Court of Human Rights (ECtHR) in Strasbourg accepted Azerbaijan's unilateral declarations in nine further freedom of religion or belief cases admitting that it had violated human rights and pledging to pay compensation within three months. The Court has already ruled on 21 such cases, accepting Azerbaijan's admissions of violations in 13 cases and finding against Azerbaijan in a further eight. These decisions leave 34 known cases relating to freedom of religion or belief – involving 61 individual applicants and 5 communities - at the Court awaiting decisions.

The 34 cases – lodged at the ECtHR between 2007 and 2019 – cover cases where individuals have been jailed for leading prayers, punished for refusing compulsorily military service on grounds of conscience, raided for holding religious meetings, faced unlawful house searches, punished for talking to others about their faith, faced censorship of religious literature, faced denial of state registration for their community, and faced movement restrictions because of personal appearance (see full list below).

An ECtHR decision is expected on 22 October in the case of Jehovah's Witness Nina Gridneva, Jehovah's Witnesses told Forum 18. In September 2010, police in the capital Baku stopped her while she was offering religious literature on the street and seized the literature. A court subsequently fined her for "illegal" religious literature distribution (http://www.forum18.org/archive.php?article_id=1520) (see below).

ECtHR judgments require governments not only to pay any compensation awarded but to rectify the conditions which led to the human rights violations.

The nine ECtHR cases in which Azerbaijan admitted violations and pledged to pay compensation to the victims, and which the Court closed in September (http://www.forum18.org/archive.php?article_id=2605), bring to 13 the number of such cases closed after Azerbaijan admitted violations. The ECtHR has found against Azerbaijan in a further eight cases, awarding compensation to the victims.

Asabali Mustafayev, the lawyer who represented seven Muslims whose cases were decided on 3 September, expressed dissatisfaction that, by accepting the government's "unilateral declaration", the Court had not reviewed the substance of the cases. He said they had tried "to have the government commit to its obligations to take general measures that such violations could not recur in future. But here the government has simply admitted a violation but has not taken any obligation on itself" (see below).

The telephone of Chingiz Asgarov, the Deputy Chair of the Supreme Court - and the Azerbaijani government's Agent at the ECtHR – went unanswered each time Forum 18 called on 30 September and 6 October.

Forum 18 asked Asgarov in writing on 30 September (http://www.forum18.org/archive.php?article_id=2605) what steps (if any) Azerbaijan is taking to prevent future violations of freedom of religion or belief, what legal changes (if any) the government is proposing to prevent such violations, and why individuals have to seek justice from the ECtHR rather than through domestic courts. Forum 18 received no response by the end of the working day in Baku on 6 October.

The telephone of Yaqut Aliyeva, spokesperson for the State Committee for Work with Religious Organisations in Baku, went unanswered each time Forum 18 rang on 30 September. Forum 18 received no response by the end of the working day in Baku on 6 October to similar questions sent to her (http://www.forum18.org/archive.php?article_id=2605).

On 30 September, Forum 18 asked Rahim Rahimov, deputy head of the Human Rights Department at the Justice Ministry in Baku, why the government had not admitted in courts within Azerbaijan that it had violated the rights of people to freedom of religion or belief before the cases reached the ECtHR and what steps it was undertaking to prevent such violations from recurring. As soon as

Forum 18 asked the questions the line went silent and then cut off (http://www.forum18.org/archive.php?article_id=2605). All subsequent calls went unanswered.

13 admissions of violations, 8 ECtHR findings against Azerbaijan

Of the 63 freedom of religion or belief cases known to have been lodged from Azerbaijan to the ECtHR in Strasbourg since 2004:

8 were dismissed or withdrawn;

13 were closed after Azerbaijan admitted violations and offered compensation in a "unilateral declaration";

8 ended in findings and awards of compensation against Azerbaijan;

34 are still pending (see below).

In all nine of the religious freedom cases on which the ECtHR issued decisions in September 2020 after the government issued a "unilateral declaration" admitting violations, as with similar earlier cases, the victims were unhappy. They do not believe the government gave a sufficient commitment that the violations of the right to freedom of religion or belief could not recur (http://www.forum18.org/archive.php?article_id=2605).

Asabali Mustafayev, the lawyer who represented seven Muslims whose cases were decided on 3 September, expressed dissatisfaction that, by accepting the government's "unilateral declaration", the Court had not reviewed the substance of the cases. He told Forum 18 in September (http://www.forum18.org/archive.php?article_id=2605) that they had tried "to have the government commit to its obligations to take general measures that such violations could not recur in future. But here the government has simply admitted a violation but has not taken any obligation on itself."

34 known cases awaiting ECtHR decision

A total of 34 cases from Azerbaijan relating to violations of freedom of religion or belief are known to be awaiting an ECtHR decision. Of these, 23 were lodged by Muslims and 11 by Jehovah's Witnesses (see full list below).

The ECtHR will only consider cases which have gone through all the courts in an applicant's home country. (The last two digits of a case's Application No. are the year when the Court registered the application.)

The ECtHR cases related to the Azerbaijani government's violations of freedom of religion or belief cover a wide range of violations. Some cases cover more than one violation (such as police seizing religious literature during a raid on a meeting for worship):

- Jailed for leading prayers (1 case involving 1 individual applicant)
- Punished for conscientious objection (2 cases involving 2 individual applicants)
- Police raids on meetings for worship (23 cases involving 32 individual applicants and 2 communities)
- Unlawful house search (1 case involving 1 individual applicant)
- Punishment for talking to others about faith (1 case involving 1 individual applicant)
- State censorship of religious literature (4 cases involving 19 individual applicants and 2 communities)
- Registration denial (1 case involving 2 individual applicants and 1 community)
- Movement restrictions because of appearance (1 case involving 3 individual applicants)

While the ECtHR has found in favour of many applicants in freedom of religion or belief cases from Azerbaijan, eight other cases were dismissed as inadmissible or closed, or the applicant withdrew the case (http://www.forum18.org/archive.php?article_id=2490).

In addition to their 11 current applications to the ECtHR in Strasbourg, Jehovah's Witnesses in Azerbaijan have lodged 11 complaints to the United Nations Human Rights Committee. Six cover police raids on meetings for worship, four cover talking to others about faith, and one covers state censorship of publications they wished to import into Azerbaijan.

ECtHR: Jailed for leading prayers

1) Babayev v. Azerbaijan (Application No. 34015/17). Police arrested Shia Muslim Imam Sardar Babayev in February 2017 and a court jailed him in July 2017 for three years for leading prayers in a mosque having gained his religious education outside Azerbaijan. He initially brought the case to challenge his pre-trial detention, but his lawyer updated the case after his sentence (http://www.forum18.org/archive.php?article_id=2353). The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-186531>) about the case on 4 September 2018. "The government gave its comments, they were sent to us and we in turn gave our comments," his lawyer Javad Javadov told Forum 18 in March 2020 (http://www.forum18.org/archive.php?article_id=2557). He said they are now waiting for the ECtHR to give its judgment.

ECtHR: Punished for conscientious objection

1) Mehdiyev v. Azerbaijan (Application No. 52773/19). Emil Mehdiyev refused to perform military service on grounds of conscience and offered to do an alternative civilian service (which does not exist in Azerbaijan). In July 2018, Barda District Court convicted him and handed down a one-year suspended prison term, and required that he live under probation for one year. Ganca Appeal Court rejected his appeal in October 2018. The Supreme Court rejected his final appeal in April 2019 (http://www.forum18.org/archive.php?article_id=2473). He filed his appeal to the ECtHR on 7 October 2019. The ECtHR has not yet asked the government questions about the case.

2) Abilov v. Azerbaijan (Application No. 54768/19). Vahid Abilov refused to perform military service on grounds of conscience and offered to do an alternative civilian service (which does not exist in Azerbaijan). In September 2018, Agdam District Court found him guilty and sentenced him to a one-year suspended prison term. Ganca Appeal Court rejected his appeal in October 2018. The Supreme Court rejected his final appeal in April 2019 (http://www.forum18.org/archive.php?article_id=2473). He filed his appeal to the ECtHR on 17 October 2019. The ECtHR has not yet asked the government questions about the case.

ECtHR: Police raids on meetings for worship

1) Religious Community of Jehovah's Witnesses and Hansen v. Azerbaijan (Application No. 52682/07). In December 2006, police, national security officers, officials and state-affiliated media raided a meeting for worship in a building in Baku (http://www.forum18.org/archive.php?article_id=896) owned by a Norwegian Oddvar Hansen, which he leased without charge to Baku's Jehovah's Witness community. Officers seized religious literature and computers. A court ruled that the search had been illegal because police had obtained no court order, but this was overturned by a higher court and the community was not notified of the final Supreme Court hearing. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-176042>) about the case on 11 July 2017. The ECtHR received all submissions from both parties by 7 February 2018 and the case is awaiting an ECtHR decision.

2) Mammadova v. Azerbaijan (Application No. 30640/09). In July 2008, a police officer detained Russian citizen Imamzade Mammadova as she was hosting a Jehovah's Witness meeting for worship at her home in Zaqatala. Police fined her for "illegal" religious activity, and then took her to the Migration Service which deported her to Russia (http://www.forum18.org/archive.php?article_id=1179). The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-191382>) about the case on 6 February 2019.

3) Sheveli and Shengelaya v. Azerbaijan (Application No. 42730/11). Police raided a Jehovah's Witness meeting for worship in Yegana Gahramanova's home in Ganca in December 2010 (in the case Valiyev and Others, the ECtHR issued a judgment in September 2020 (http://www.forum18.org/archive.php?article_id=2605)). Officers also detained Vepkhvia Sheveli and Ekaterine Shengelaya, a married couple from Georgia. A court fined them and deported them. (http://www.forum18.org/archive.php?article_id=1527) The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-175876>) about the case on 6 July 2017.

4) Niftaliyev and Others v. Azerbaijan (Application No. 561/12). In June 2011, police raided a Jehovah's Witness meeting for worship in Yegana Gahramanova's home in Ganca. A court fined Gahramanova, as well as Rashad Niftaliyev, Rana Sadigova and Teymur Valiyev (though his fine was reduced to a warning because of his disability) (http://www.forum18.org/archive.php?article_id=1604) for an "illegal" religious meeting. The Baku Jehovah's Witness community joined the application to the ECtHR. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-175874>) about the case on 6 July 2017. The ECtHR received all submissions from both parties by 7 February 2018 and the case is awaiting an ECtHR decision.

5) Genc and Others v. Azerbaijan (Application No. 71032/12). In April 2012, police in Ganca raided a Muslim meeting for worship in a home. Officers took Turkish citizens Sadullah Eren Genc, Saim Samir and Tugrul Kiraz to the police station. A court later fined each and ordered their deportation, though an appeal court subsequently changed the deportation orders to warnings. (http://www.forum18.org/archive.php?article_id=1719) The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-175873>) about the case on 6 July 2017.

6) Panahov and Others v. Azerbaijan (Application No. 17374/16). In May 2013, police raided a Jehovah's Witness meeting for

worship at Shalala Atamova's home in Shamkir. Police questioned her, Nijat Panahov, Mehpara Jafarova and Lala Yusifova (among others), warned them not to hold such meetings and freed them. The four challenged the police action in court, seeking an apology for the raid, a pledge not to raid meetings for worship in future and compensation. Local courts rejected their suit.

(http://www.forum18.org/archive.php?article_id=1894) The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-192029>) about the case on 26 February 2019.

7), 8), 9), 10), 11), 12), 13) Alakbarov v. Azerbaijan (Application No. 55503/15); Ismayilov v. Azerbaijan (Application No. 55507/15); Jabrayilov v. Azerbaijan (Application No. 55510/15); Sabuhi Mammadov v. Azerbaijan (Application No. 55512/15); Huseynov v. Azerbaijan (Application No. 55520/15); Gasimov v. Azerbaijan (Application No. 55524/15); and Yunusov v. Azerbaijan (Application No. 55531/15). In June 2015, police and officials raided Sabuhi Mammadov's home in Gadabay where Muslims who study Said Nursi's works were meeting. A court fined Mammadov for organising an "illegal" religious meeting, while Emin Alakbarov, Javanshir Ismayilov, Elmira Jabrayilov, Samir Huseynov, Rovshan Gasimov and Parvin Yunusov were among 13 others fined for "hooliganism" (http://www.forum18.org/archive.php?article_id=2080). The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-176039>) about the seven cases on 11 July 2017.

14), 15), 16), 17), 18), 19), 20), 21), 22), 23) Rzamov v. Azerbaijan (Application No. 81005/17); Guliyev [Quliyev] v. Azerbaijan (Application No. 81009/17); Gasimov v. Azerbaijan (Application No. 81024/17); Khanlayev v. Azerbaijan (Application No. 81043/17); Elmar Aliyev v. Azerbaijan (Application No. 81049/17); Shikhmammadov v. Azerbaijan (Application No. 81051/17); Seyfalov v. Azerbaijan (Application No. 81083/17); Amrahov v. Azerbaijan (Application No. 81084/17); Badirkhanov v. Azerbaijan (Application No. 81088/17); and Gulaliyev v. Azerbaijan (Application No. 81095/17). In March 2017, police raided a home in Quba where Muslims who study Said Nursi's works were meeting and seized religious literature. Almost all of those present were fined in March 2017, including these 10 men (http://www.forum18.org/archive.php?article_id=2294). The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-204696>) about these 10 cases on 26 August 2020.

ECtHR: Unlawful house search

1) Miragayev v. Azerbaijan (Application No. 29550/14). In May 2012 police and National Security Ministry (NSM) secret police raided Zeka Miragayev's Baku home (http://www.forum18.org/archive.php?article_id=1719). They confiscated 30 copies of the Koran, 24 other books (including some by Said Nursi), a computer and a small sum of money. He failed through the local courts to have the raid and confiscations of his religious literature declared illegal. The application concerns the allegedly unlawful search of the applicant's flat. The applicant also complains that he was not duly notified of the hearing before the Supreme Court. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-187776>) about the case on 24 October 2018.

ECtHR: Punishment for talking to others about faith

1) Gridneva v. Azerbaijan (Application No. 29578/11). In September 2010, police in Baku stopped Jehovah's Witness Nina Gridneva while she was offering religious literature on the street and seized the literature. A court subsequently fined her for "illegal" religious literature distribution. (http://www.forum18.org/archive.php?article_id=1520) The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-174268>) about the case on 18 May 2017. An ECtHR decision is expected on 22 October 2020, Jehovah's Witnesses told Forum 18.

ECtHR: State censorship of religious literature

1) Mammadov v. Azerbaijan (Application No. 7308/12). In July 2007, police raided a religious meeting of Muslims who read Said Nursi's works at Shukran Mammadov's home in Ujar and seized books and religious materials, handing them to the State Committee. Baku courts rejected his demand for the State Committee to return the books (http://www.forum18.org/archive.php?article_id=1522), claiming that they contained passages encouraging sectarianism and therefore not recommended for distribution. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-181912>) about the case on 6 March 2018.

2) Jafarov and Others v. Azerbaijan (Application No. 406/12). In December 2009, the State Committee rejected an application to import Jehovah's Witness literature, claiming it incited "religious intolerance against members of the Catholic, Protestant and Russian Orthodox churches". In 2010, the State Committee issued four further denials, claiming the literature encouraged intolerance of Christians or misrepresented the Koran. The Baku Jehovah's Witness community and ten of its members, including Adam Jafarov, failed to overturn these denials through the local courts. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-182157>) about the case on 12 March 2018.

3) Tagiyev and Others v. Azerbaijan (Application No. 66477/12). In October and November 2010, the State Committee rejected in full or in part the community's requests to import Jehovah's Witness literature. The State Committee rejected in full or in part five further applications between December 2010 and May 2011. The Baku Jehovah's Witness community and seven of its members, including Arif Tagiyev, failed to overturn these denials through the local courts. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-178976>) about the case on 31 October 2017.

4) Miriyev v. Azerbaijan (Application No. 1717/20). In February 2018, the State Committee for Work with Religious Organisations banned the publication and distribution in Azerbaijan on theological grounds of the book "Things Not Existing in Islam" by Muslim theologian Elshad Miri (also known as Miriyev). On 20 December 2019, after failing to overturn the ban through the local courts (http://www.forum18.org/archive.php?article_id=2490), Miri lodged a case in the ECtHR. The ECtHR has not yet asked the government questions about the case.

ECtHR: Registration denial

1) Moroz and Others v. Azerbaijan (Application No. 49264/12). The State Committee for Work with Religious Organisations rejected the application for state registration which a Jehovah's Witness community in Baku lodged in 2009. The community challenged what it regarded as an unjust and arbitrary registration denial. After nearly two years of legal hearings, in February 2012 Jehovah's Witnesses finally lost their case in the Supreme Court (http://www.forum18.org/archive.php?article_id=2081), when Leonid Moroz, another community member and the Baku community itself lodged their ECtHR application. The ECtHR has not yet asked the government questions about the case.

ECtHR: Movement restrictions because of appearance

1) Pashayev and Others v. Azerbaijan (Application No. 18068/08). In June 2007, Elmar Pashayev, Kamil Almammadov and Vugar Mammadov visited Quba District from Baku for a few days, but the police told them they had violated temporary residence registration rules and ordered them to leave the district. They complain that they were singled out solely because they were dressed in "traditional Islamic attire" and wore long beards. They tried to sue the local police but the courts claimed they never received the suits. The ECtHR asked the government questions (<http://hudoc.echr.coe.int/eng?i=001-176041>) about the case on 11 July 2017. (END)

Full reports on freedom of thought, conscience and belief in Azerbaijan
(<http://www.forum18.org/archive.php?query=&religion=all&country=23>)

For more background, see Forum 18's Azerbaijan religious freedom survey (http://www.forum18.org/archive.php?article_id=2429)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (http://www.forum18.org/archive.php?article_id=1351)

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