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AZERBAIJAN: "People should not be jailed solely for their religious or conscientious behaviour"

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

Five years after promising the Council of Europe that it would have a civilian alternative to military service in place, Azerbaijan is still sentencing those who cannot perform military service on grounds of conscience, Forum 18 News Service notes. Jehovah's Witness Samir Huseynov was sentenced to ten months' imprisonment in October 2007 and is in prison in Gyanja, apparently awaiting imminent transfer to a labour camp in Baku. "We at the Council of Europe think that people should not be jailed solely for their religious or conscientious behaviour," Denis Bribosia, the Council of Europe representative in Baku, told Forum 18. "Categorically saying that Azerbaijan failed to honour its commitment is premature," Marat Kangarlinski of the Azerbaijani representation to the Council of Europe told Forum 18. But he did not explain why no alternative service is in place and why conscientious objectors are still being prosecuted. Also in prison is Baptist pastor Zaur Balaev, serving a two-year sentence on charges church members insist are trumped up. He is still waiting to hear from the Supreme Court when his appeal will be heard.

Friends of Azerbaijan's two religious prisoners of conscience – 45-year-old Baptist pastor Zaur Balaev and 22-year-old Jehovah's Witness conscientious objector Samir Huseynov - have expressed concern and frustration to Forum 18 News Service that appeals for their release have been fruitless. Both families have lost their breadwinner. "Since both of his parents are unemployed, Huseynov was the sole source of their income," Jehovah's Witnesses told Forum 18.

Huseynov's prosecution and the failure to introduce alternative non-military service violate Azerbaijan's specific commitment to the Council of Europe. When Azerbaijan joined in 2001, it pledged to introduce alternative service by January 2003, but did not do so.

"This commitment has not yet been fulfilled," Denis Bribosia, the Council of Europe representative in Baku, told Forum 18 on 22 January. "We at the Council of Europe think that people should not be jailed solely for their religious or conscientious behaviour."

Bribosia pointed out that in April 2007 the Council of Europe Parliamentary Assembly adopted a resolution again urging the Azerbaijani authorities to adopt a law on alternative service "without further delay in line with their accession commitment". "That's nine months ago," he noted. "The government informed us that it is still considering the adoption of the alternative service law, but no law has yet been adopted."

Balaev leads a much-persecuted Baptist congregation in the remote village of Aliabad in the north-western Zakatala [Zaqatala] district close to the border with Georgia. He was arrested in May 2007 and sentenced in August on charges of using violence against state representatives, an accusation church members flatly denied to Forum 18. After his appeal failed in October Balaev was transferred to Ordinary Regime Prison No. 10 in the capital Baku (see F18News 10 December 2007 http://www.forum18.org/Archive.php?article_id=1059).

"Zaur's conditions in prison have now stabilised," Ilya Zenchenko, head of Azerbaijan's Baptist Union, told Forum 18 from Baku on 22 January. "His family have been able to visit him once a month and are able to pass on medicine for his heart."

However, Zenchenko says there has been no progress on Balaev's final appeal to the Supreme Court in Baku. "He should have heard from the Supreme Court by 15 January, but he heard nothing," Zenchenko reported. "The other possibility is that after 26 January, when he will have served a third of his sentence, they could change the terms of his imprisonment, perhaps by changing the rest of his term from imprisonment to home detention, where he would be under close police monitoring."

Zenchenko describes the possibility of detention in his home in Aliabad as "a bad variant". "You're at home but are not free," he told Forum 18. "You can't travel to the next town, let alone abroad. Everything you do is monitored by the police. And the local police are the ones who caused Zaur the problems." Zenchenko said any breach of the terms of transfer to home detention could result in re-imprisonment.

As well as being fined for their religious work, a number of other Protestants have been threatened in recent months that they could be imprisoned as Balaev has been (see F18News 20 December 2007 http://www.forum18.org/Archive.php?article_id=1065).

However, Zenchenko said that these threats have not so far been carried out.

Meanwhile, friends of Huseynov, the imprisoned Jehovah's Witness, told Forum 18 that his transfer from prison in Gyanja [Gäncä] to a labour camp in Baku is apparently imminent. "At the end of December there were some talks of him being transferred from the prison to a labour camp in the capital Baku," one Jehovah's Witness who preferred not to be identified told Forum 18 on 22 January. "Samir was still in Gyanja definitely as of 21 January."

Despite calls on 21 and 22 January, prison officials refused to tell Forum 18 if and when Huseynov is to be transferred.

The Geranboy District Court in western Azerbaijan sentenced Huseynov on 4 October 2007 to 10 months in prison for evading compulsory military service, Jehovah's Witnesses told Forum 18. He was punished under Article 321.1 of the Criminal Code, which prescribes a penalty of up to two years' imprisonment. "Huseynov was prosecuted despite the constitutional guarantee of alternative service," Jehovah's Witnesses complained to Forum 18.

Huseynov was born in Azerbaijan but had lived in Russia for some years before returning to Azerbaijan with his family. When he was called up in summer 2007 he told the military commissariat he was prepared to do a civilian alternative service. He was not arrested in the run-up to the October court hearing. He was detained immediately following the hearing and sent to the prison in the nearby city of Gyanja to begin his sentence.

Officials refused to give Huseynov a copy of the written verdict within the prescribed period. "This was a deliberate trick to make his appeal difficult, as this had to be filed within 20 days," Jehovah's Witnesses told Forum 18. Huseynov signed an appeal on 22 October, which he sent to the appeal court via the prison administration. However, on 5 November the court sent it back on the grounds that it was written in Russian. Huseynov re-wrote it in Azerbaijani and asked the prison administration to send it to the court on 8 November. However, on 26 November the court rejected the appeal as it said it had been received after the deadline for lodging appeals.

Marat Kangarliniski of the Azerbaijani representation to the Council of Europe promised to find out why Huseynov has been imprisoned. But he denied that his country has failed to honour its commitments, despite the fact that an alternative service should have been up and running five years ago. "Categorically saying that Azerbaijan failed to honour its commitment is premature," he told Forum 18 from Strasbourg on 22 January. "Work is going on and Azerbaijan is bringing its domestic legislation in compliance with international standards and obligations it undertook."

Kangarliniski said a draft law on alternative service has been prepared and reviewed by experts of the Council of Europe, including the Directorate of Human Rights and Legal Affairs. He added that it is due to be submitted to parliament, the Milli Mejlis, but gave no date.

Article 76 of Azerbaijan's Constitution provides that "if beliefs of citizens come into conflict with service in the army then in some cases envisaged by legislation alternative service instead of regular army service is permitted". Despite the Constitutional provision and the Council of Europe commitments, officials at Azerbaijan's Human Rights Ombudsman Office have told Forum 18 that "signing such commitments doesn't mean we have to accept these rights without a corresponding law" (see F18News 7 July 2006 http://www.forum18.org/Archive.php?article_id=809).

Jehovah's Witnesses complained to Forum 18 that Huseynov is the first to be imprisoned for refusing military service in recent years. Earlier cases resulted in suspended sentences. Other Jehovah's Witnesses who write to the military commissariat to say they cannot perform military service on grounds of religious conscience and that they are prepared to do civilian alternative service have not been touched.

In July 2006, conscientious objector Mushfiq Mammedov, who was studying to become a Jehovah's Witness, was found guilty of violating Article 321.1 of the Criminal Code. He was given a suspended sentence of six months. Mammedov was beaten during his time in pretrial detention and stated that he would accept military service. However, during the court case, he asked the judge to overlook his statement accepting military service because it was made under duress. The judge complied (see F18News 26 July 2006 http://www.forum18.org/Archive.php?article_id=818).

Jehovah's Witnesses complained to Forum 18 that Mammedov's attempt to bring his latest appeal to the Supreme Court has failed. After his September 2006 appeal to the Court of Appeals was dismissed Mammedov lodged an appeal to the Supreme Court. Despite repeated attempts in 2007 to find out when the hearing would take place, Mammedov's lawyers were told each time that no date had been set. Soon after they wrote again on 1 August 2007 they discovered that the hearing had taken place four months earlier and the appeal had been dismissed. Mammedov was told a copy of the decision would be mailed to him, but one never arrived. His lawyer managed to obtain a copy only unofficially. (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 <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=azerba>

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

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY