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AZERBAIJAN: "Prosecutors very much want to sentence Hamid"

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

The criminal trial of Baptist pastor Hamid Shabanov began in the north-western town of Zakatala on 22 July, despite the fact that the prosecution had refused to hand the defence the case materials, Baptist Union leader Ilya Zenchenko told Forum 18 News Service. The trial resumes on 28 July. The same court sentenced fellow Baptist pastor Zaur Balaev to prison in 2007. Shabanov is being prosecuted on charges that he held an illegal weapon and faces up to three years' imprisonment. His church and family insist the weapon was planted during a massive raid on his home on 20 June during which he was arrested. They say he is being prosecuted to punish him for leading his congregation. "Prosecutors very much want to sentence Hamid," Zenchenko warned. "This whole case has been staged. We pray to God for him to come home," Shabanov's family told Forum 18. Meanwhile prosecutors in the capital Baku are trying to prosecute Jehovah's Witness conscientious objector Mushfiq Mammedov for a second time on charges of evading military service, although the Constitution and the Criminal Code ban this.

The criminal trial of Baptist pastor Hamid Shabanov began yesterday (22 July) with a preliminary hearing in the north-western town of Zakatala [Zaqatala], Forum 18 News Service has learnt. The full trial – at which he faces up to three years' imprisonment – begins on 28 July and could be over within two days, the head of Azerbaijan's Baptist Union Ilya Zenchenko told Forum 18 after the preliminary hearing on 22 July. "Prosecutors very much want to sentence Hamid," he warned. He views Shabanov's prosecution as part of an official campaign against local Baptists which has lasted more than a decade. Meanwhile a police manhunt has begun for a Jehovah's Witness conscientious objector Mushfiq Mammedov, who has already served one sentence for refusing military service. Prosecutors want to sentence him a second time for the same offence, although this is banned in law.

Zenchenko – who travelled the 450 kms (280 miles) from the capital Baku to attend the hour-long hearing – said Shabanov "looked bad". "Hamid was wearing the same clothes he had been arrested in back on 20 June," he told Forum 18. "The Zakatala police who are now holding him have not allowed his family to pass on food or clothes. Hamid's wife and daughters were crying in court – it was the first time they had been able to see him since he was brought back to Zakatala earlier this month. Even then they were kept at a distance of three metres [yards] and were not able to touch him."

The authorities similarly denied former Baptist prisoner of conscience Pastor Zaur Balaev's family the opportunity to meet him during his lengthy pre-trial arrest (see F18News 22 June 2007 http://www.forum18.org/Archive.php?article_id=979).

Forum 18 was unable to find out from Zakatala police why they had refused to accept food and clothes for Shabanov and why family visits had been denied. The duty officer refused to put Forum 18 through to the police chief Faik Shabanov (no relation) on 23 July. "Why should I put you through?" he asked, before putting the phone down.

Shabanov is leader of one of several Baptist congregations in the majority Georgian-speaking village of Aliabad, which is close to Zakatala, the regional centre. The 51-year-old pastor is married with three adult children, two daughters and a son. He is being tried at the same court where fellow Aliabad Baptist pastor Zaur Balaev was sent to prison in 2007. Fabricated evidence and lack of due process were evident in that trial (see F18News 9 August 2007 http://www.forum18.org/Archive.php?article_id=1005).

"We saw him today in court," Shabanov's family told Forum 18 on 22 July from their home in Aliabad. They report that about fifteen family and church members were allowed into the court and say that for the first time the police did not refuse to accept food and clean clothes for Shabanov. "We hope they now hand them on to him."

The family insists that all they want is Shabanov back home. "This whole case has been staged. We pray to God for him to come home."

Zenchenko complained that Shabanov's lawyer, Mirman Aliev, was only shown the full case file at the 22 July hearing and can only now begin to prepare Shabanov's defence. He said that Shabanov is being tried under Article 228, part 1 of the Criminal Code, which punishes illegal holding of a weapon with a sentence of up to three years' imprisonment. Shabanov's congregation and his family insist that a Nagant pistol a Prosecutor's Office official claims to have found during the 20 June house search was planted in his home. Shabanov was arrested immediately after the alleged discovery.

During the search by some ten officers of the police, Prosecutor's Office and National Security Ministry (NSM) secret police, Christian literature was deemed "banned literature" and confiscated (see F18News 7 July 2008 http://www.forum18.org/Archive.php?article_id=1155).

Zenchenko also complained that the case paperwork includes allegations that Shabanov was promoting separatism among other members of Azerbaijan's Georgian-speaking minority, allegations Zenchenko rejects. "Hamid did not have an illegal weapon and he did not promote separatism," he told Forum 18. "But he has been accused of trying to create a new Karabakh," he reported in a reference to the mountainous region with a majority ethnic Armenian population which broke away from control from Baku in a bitter war in the late 1980s and early 1990s.

Forum 18 was unable to find out from Hekimkhan Seferov of the Zakatala District Prosecutor's Office why materials on Shabanov's case had not been handed to the defence until the first day of the trial. The official who answered the telephone on 23 July said Seferov was not in the office and refused to discuss Shabanov's case.

Zenchenko lamented that unlike with earlier hearings in the prosecution of fellow Aliabad Baptist pastor Balaev, no observers from the Baku Office of the Organisation for Security and Co-operation in Europe (OSCE) were present in court.

Balaev was arrested in May 2007 on charges of attacking five police officers and damaging a police car that he and his church insist were trumped up and aimed to punish him for leading his congregation. He was sentenced to two years' imprisonment, but was freed on 19 March after being held for nearly a year. He was summoned and threatened with a new prison term in early May (see F18News 12 June 2008 http://www.forum18.org/Archive.php?article_id=1142).

Meanwhile Jehovah's Witness conscientious objector Mammedov faces a possible new sentence for refusing compulsory military service, despite the fact that he has already served one sentence on this charge. Jehovah's Witnesses told Forum 18 on 22 July that the new criminal case could have been lodged to punish him for challenging the original sentence through the domestic courts and at the European Court of Human Rights (ECtHR) in Strasbourg, where his case is now awaiting an admissibility decision.

Forum 18 tried to find out why the Prosecutor's Office is seeking to prosecute Mammedov for a second time, but the telephone went unanswered on 23 July.

Mammedov was found guilty by Baku's Sabail District Court on 21 July 2006 of violating Article 321.1 of the Criminal Code, which punishes evasion of military service with a sentence of up to two years' imprisonment. He was given a suspended sentence of six months. The authorities have repeatedly – as in other cases such as that of Pastor Balaev – violated due legal process in hearing Mammedov's appeal (see F18News 22 January 2008 http://www.forum18.org/Archive.php?article_id=1075).

The original prosecution and the new attempted prosecution come despite Azerbaijan's commitment to the Council of Europe to have instituted an alternative sentence by January 2003, two years after it joined the pan-European organisation. Azerbaijan failed to meet this deadline and has still not adopted an alternative service law.

Jehovah's Witnesses told Forum 18 that the "harassment" of Mammedov and his family began soon after he filed the application to the ECtHR in March 2008. "Starting from May this year, policemen several times went to the apartment where Mushfiq is registered," they told Forum 18. "And several times officials from Sabail District Prosecutor's Office called his mother and told her that Mushfiq should come to the Prosecutor's Office, allegedly because Mushfiq was accused of committing the crime of stealing a mobile phone."

On 8 June Mammedov and his mother Sevil Najafova filed a complaint against these actions with Sabail District Prosecutor's office. "Up till now they received no answer from the Prosecutor's Office," the Jehovah's Witnesses complained. Copies of the complaint were also sent to the Human Rights Ombudsperson Elmira Suleymanova and human rights organisations.

On 7 July a police officer named Javad called Mammedov's mother and said that a criminal case has been instigated over his alleged evasion of military service. He said he had received a written order to find him and bring him forcibly to the investigator Vugar Alekperov of Sabail District Prosecutor's Office. "Interestingly, up till that time Mushfiq did not receive any written notice from the Prosecutor's Office," the Jehovah's Witnesses commented.

The next day Mammedov's mother went to the prosecutor's office where she was given the written decision that a criminal case had been instigated against her son. The decision – of which Forum 18 has seen a copy – was dated 5 June. She was also informed that police would soon declare a manhunt for him.

The Jehovah's Witnesses point out that Article 64 of Azerbaijan's Constitution and Article 8.2 of the Criminal Code do not allow criminal charges to be brought against someone twice for the same crime. "Moreover this should be true in this case when Mushfiq did not commit any crime, but used his constitutional rights to request alternative service." They said Mammedov intends to file another complaint shortly with Sabail District Prosecutor's Office about the attempt to prosecute him a second time for the same offence.

Another Jehovah's Witness conscientious objector prisoner, Samir Huseynov, was freed from jail on 1 May (see F18News 14 May 2008 http://www.forum18.org/Archive.php?article_id=1129). (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>.

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>.

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