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AZERBAIJAN: Gaining legal status "a torturous process"

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

Many of Azerbaijan's religious communities have told Forum 18 News Service that procedures to gain or re-gain legal status are "a torturous process". At least 300 communities are waiting for renewed legal status, and unregistered activity is banned. Typically over 15 separate documents are required, and many complain that State Committee for Work with Religious Organisations officials arbitrarily and repeatedly question information supplied, the grammar of applications, and the completeness of documentation. Yusif Askerov of the State Committee told Forum 18 that "we're trying to help religious communities with the re-registration process". But communities state that complaints about slowness and hostility in processing applications are dismissed with comments such as "If you're not happy you can take us to court". Many communities are afraid to speak out publicly, for fear of official reprisals. But some are prepared to take their cases to the European Court of Human Rights in Strasbourg, noting the precedents set by Moldova losing such cases.

A very wide range of Azerbaijan's religious communities have independently told Forum 18 News Service that the compulsory re-registration process to re-gain legal status is "torturous". Under the 2009 Religion Law it was supposed to have been completed by 1 January 2010, but according to the State Committee's own figures at least 300 religious communities are still without legal status. Unregistered religious activity is, against international human rights standards, banned. However, Yusif Askerov, head of the Registration Department at the State Committee for Work with Religious Organisations in the capital Baku, brushes aside such complaints. "We're trying to help religious communities with the re-registration process," he claimed to Forum 18 on 6 April.

Communities that had managed to gain registration since the last round of re-registration in 2002 complained that they had to rush to complete extensive and complex documentation by the deadline. The many communities that had arbitrarily been denied registration since 2002 complained that - if they wanted to try again for registration - they had to once again go through the complex bureaucracy of acquiring the necessary state documents to re-apply.

All the re-registration applications from communities Forum 18 has spoken to were made before 31 December 2009, in the majority of cases in the autumn of that year. Some communities who did not have registration, were refused it, or had no answer to an original application, have applied for registration for the first time since 2009.

"Torturous process"

Religious communities complain that the process is extremely slow and difficult, some independently describing it as "a torturous process". Typically, over 15 separate documents are required, many of them officially notarised. These are required from both people designated by the community as founders and for the communities themselves. Among the required documents are: minutes of approved meetings; reasons why founders have changed (if they have since the community was previously registered); and reasons for any changes of address.

Communities complain that State Committee officials arbitrarily and repeatedly question information in founding documents on the aims and procedures, the identity of office-holders, the territory where the community operates, and the address the community wished to register at. Officials also have questioned the grammar of registration applications, and the completeness of documentation provided.

Several religious communities have told Forum 18 that the State Committee dismisses their complaints about slowness and hostility in processing registration applications. Some have complained of officials telling them: "If you're not happy you can take us to court." They complain that the statutes of the State Committee require it to help religious communities, yet this is not what the Committee does.

One representative of a religious community – who, like many, asked not to be identified for fear of state reprisals against their community – told Forum 18 in February that the State Committee's activity is "anti-Constitutional". "Our rights to practice our faith are guaranteed in Azerbaijan's Constitution, but the State Committee acts against this. Even its very existence is against the Constitution. But religious communities are paralysed with fear that, if they speak out, their registration chances will be reduced to zero."

Defiance of international human rights obligations

Prominent among religious communities which have failed to gain legal status are all independent mosques outside the framework of the state-backed Caucasian Muslim Board, as well as some of the Board's own mosques. Also without legal status are Baku's Catholic parish, almost all Protestant denominations (including Baptists, Seventh-day Adventists and Pentecostals), as well as Jehovah's Witnesses. The handful of Protestant churches allowed to re-register include Baku's Erlösergemeinde Lutheran community, three Molokan communities in Baku, Sumgait and Hilmilli, as well as New Life Church in Baku (see F18News 10 December 2010 http://www.forum18.org/Archive.php?article_id=1520).

In defiance of the country's international human rights obligations, Azerbaijan's harsh new 2009 Religion Law imposes compulsory registration and declares all unregistered religious activity illegal. The new Law imposed compulsory re-registration of all registered religious communities, setting the deadline of 1 January 2010 (see F18News 3 June 2009 http://www.forum18.org/Archive.php?article_id=1305).

Threats and riot police

Askerov of the State Committee insisted to Forum 18 that the registration certificates of religious communities which had registration under the old system remain valid while the re-registration process continues. "They can therefore still meet for worship," he claimed.

He pointed out – correctly – that the State Committee would have to go to court in each case to liquidate a community's legal status. He said his Committee has not done so yet for any community.

But despite Askerov's assurances, many religious communities which have failed to gain re-registration are vulnerable to official threats, police raids and possible fines. The State Committee representative in Azerbaijan's second city Gyanja [Gäncä] ordered three religious communities which did not have legal status to close in March. One, Star of the East Pentecostal Church, was visited by two bus loads of riot police and ordinary police to stop them meeting for worship (see F18News 8 April 2011 http://www.forum18.org/Archive.php?article_id=1560).

Why so slow?

Askerov confirmed to Forum 18 that the 510 religious communities listed as registered on the State Committee website (493 Muslim and 17 of other faiths) are the only ones so far to have gained re-registration, although the deadline was more than 15 months ago. He admitted that the last community re-registered was on 8 December 2010, and that no new communities had been registered since then.

The government's report to Parliament, the Milli Mejlis, for 2010 notes that 814 religious communities applied for registration or re-registration to the State Committee, the APA news agency stated on 7 March. It said 780 were Islamic and 34 of other faiths. A total of 30 applications were rejected because the communities were harmful or their documentation was not in order, it added.

Told that religious communities are highly frustrated by the long delay and afraid of being raided and punished, Askerov insisted his Department is working efficiently to process the applications. "More than 700 communities lodged applications – we have to check them carefully and there are many mistakes."

In June 2010 after a visit to Azerbaijan, Thomas Hammarberg, the Council of Europe's Commissioner for Human Rights, condemned the re-registration requirement and the difficulties for many religious communities over re-registration. "In the Commissioner's view, the obligation for all religious communities to re-register – if they wish to continue to legally exist – appears to be quite superfluous and should in any event be less cumbersome," he wrote (see F18News 1 September 2010 http://www.forum18.org/Archive.php?article_id=1482).

Askerov brushed aside Hammarberg's complaints, telling Forum 18 that religious communities have not complained to the State Committee.

He pledged that a further batch of communities will be re-registered by the end of April. The only one of these he would identify is Baku's Catholic congregation. "They wanted to register a Centre," he told Forum 18, "but they didn't have enough members for that." Informed that international human rights commitments allow religious communities to choose how to structure themselves, Askerov rejected this. "They cannot register a Centre, but we've agreed to give the community registration."

Askerov stressed that, as a state official, he can merely implement the law, which bans all unregistered religious activity. Islamic communities were also targeted by a second package of 2009 restrictions on freedom of religion or belief. Under this second package of restrictions, mosques can only apply for registration if they are part of the state-backed Caucasian Muslim Board (see F18News 22 July 2009 http://www.forum18.org/Archive.php?article_id=1330).

Appeals to European Court in Strasbourg if necessary

Askerov of the State Committee Registration Department confirmed to Forum 18 that two religious communities who applied for registration in 2009 – the Jehovah's Witnesses and the Baku-based Cathedral of Praise Pentecostal Church – have lodged suits in court challenging registration denials.

Sabail District Court – the local Baku court for the State Committee where such suits are initially heard – rejected the Jehovah's Witness suit in July 2010. Its first appeal to Baku Appeal Court was rejected on 6 January, the Court website notes (see F18News 24 January 2011 http://www.forum18.org/Archive.php?article_id=1531).

On 4 March, Jehovah's Witnesses lodged a further appeal to the Supreme Court. They told Forum 18 that they are prepared to take their case to the European Court of Human Rights (ECtHR) in Strasbourg if what they regard as the unjust registration denial is not overturned.

Cathedral of Praise – a congregation affiliated with the Word of Life Church in Sweden – failed in its suit to Sabail District Court in July 2010 (see F18News 1 September 2010 http://www.forum18.org/Archive.php?article_id=1482). On 13 December 2010, Judge Mirza Tagizade rejected its first appeal at Baku Appeal Court, the Court website notes.

The Church's Pastor, Rasim Halilov, told Forum 18 it lodged a final appeal in mid-March to the Supreme Court, which is due to hear the appeal on 14 May. He also said they would also take their case to the ECtHR in Strasbourg if necessary.

Baptist Union head Zenchenko told Forum 18 on 6 April that it too is planning to lodge a suit in court against the State Committee. This is both because of the Committee's failure to register Baptist congregations, and over what Baptists state are violations of the religious freedom guaranteed in Azerbaijan's Constitution and its international human rights obligations.

Other religious leaders told Forum 18 they are afraid to challenge the State Committee in court as they believe they cannot win. They state that this is because of the "corrupt nature of this country's courts", and their fear of antagonising the State Committee still further.

"We don't want to have to pay such fines"

Askerov of the State Committee insisted to Forum 18 that the State Committee wishes to resolve these cases before they reach the ECtHR in Strasbourg. However, he gave no indication of how the State Committee might intend to resolve them.

Forum 18 reminded Askerov that the Moldovan government has been fined three times by the ECtHR for arbitrarily refusing legal status and punishing unregistered religious. The three cases were the Bessarabian Orthodox Church in 2001 (see <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=697862&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>), the True Orthodox Church in 2007 (see F18News 8 March 2007 http://www.forum18.org/Archive.php?article_id=925), and a Muslim community in 2009 (see F18News 9 June 2009 http://www.forum18.org/Archive.php?article_id=1308).

Askerov responded: "We don't want to have to pay such fines." But again he refused to explain why the State Committee cannot take any measures to avoid communities needing to go to court to seek their rights.

Dialogue fails

Several religious communities – mostly Protestant – met Rabiyyat Aslanova, Chair of the Milli Mejlis Human Rights Committee, in December 2010 to discuss their concerns, including over denial of re-registration. Several participants told Forum 18 that the meeting had been positive, but they say Aslanova later backed the State Committee in what they call its "excuses" for denying or delaying re-registration.

Referring to the many forced closures of mosques, Deputy Aslanova has claimed to Forum 18 that "some mosques have been closed, but true believers aren't concerned about this" (see F18News 5 April 2011 http://www.forum18.org/Archive.php?article_id=1558).

Deputy Aslanova insisted to Forum 18 on 5 April that she set up the meeting to help religious communities. She said she had met State Committee Chair Hidayat Orujev and insisted that the problem needed to be resolved. She added that he had explained that many applications were not in order but that the State Committee would help them.

She claimed that because she had heard nothing more from the religious communities who attended the December 2010 meeting that they no longer had any complaints. "I did all that I could," she told Forum 18. "I was convinced the problem was solved." She denied that she was powerless to help religious communities achieve their rights.(END)

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1192.

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 personal commentary on the European Court of Human Rights and conscientious objection to military service is at http://www.forum18.org/Archive.php?article_id=1377).

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.

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.

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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