

8 May 2014

AZERBAIJAN: Beating to extract "evidence"; conscientious objector gets one year's military detention

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

Dashqin Vahabli was among nine Muslims fined nearly four months' average wages for attending a study session of the works of Islamic theologian Said Nursi in Baku. On 1 May he was summoned to the secret police where, he told Forum 18 News Service, he was beaten. Officers tried to force him to incriminate Eldeniz Hajiyev and Ismayil Mammadov for teaching religion "illegally". The two have been in secret police custody since 12 April and face up to three years' imprisonment if convicted. Secret police investigator Nadir Mustafayev did not answer Forum 18's repeated calls. Meanwhile 18-year-old Jehovah's Witness conscientious objector Kamran Shikhaliyev has appealed against his sentence of one year in a disciplinary military unit. He was forcibly conscripted in October 2013. Azerbaijan's failure to introduce a civilian alternative to military service is in defiance of its commitments to the Council of Europe, of which it becomes Chair on 14 May.

At least 10 people have been questioned by Azerbaijan's National Security Ministry (NSM) secret police in the capital Baku, as the NSM collects "evidence" in the criminal case against two Muslims, Eldeniz Hajiyev and Ismayil Mammadov. Both were detained after an armed police raid on a meeting in a private home to study the works of late Turkish Sunni Muslim theologian Said Nursi. One of those questioned – Dashqin Vahabli – told Forum 18 News Service he was beaten by NSM officers on 1 May, as they tried to pressure him to sign incriminating statements.

"The [NSM secret police] officers insulted me and beat me to pressure me to sign a statement that Eldeniz and Ismayil had gathered people illegally to teach them religion," Vahabli told Forum 18 from Baku on 6 May. "But I refused." He said that the NSM had summoned him by telephone for questioning twice more since 1 May, but that on those occasions he was not beaten. He added that others who had been summoned for questioning had not complained of being beaten.

Hajiyev and Mammadov are in Baku's NSM secret police Investigation Prison, being investigated under Criminal Code Article 168.2. Article 168 punishes "Creation of a group carrying out activity under the pretext of spreading a religious faith and carrying out religious activity and by this illegally harming social order, or harming the health of citizens or violating the rights of citizens irrespective of the form of infringement, as well as distracting citizens from performance of duties established by law, as well as leadership of such a group or participation in it". Cases when minors are involved are prosecuted under Article 168.2, which carries a maximum punishment of three years' imprisonment (see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/archive.php?article_id=1690).

Meanwhile, seven months after his detention and forcible conscription into the army, 18-year-old Jehovah's Witness conscientious objector Kamran Shikhaliyev has appealed against his criminal prosecution and sentence of one year in a disciplinary military unit (see below).

Also, an apparent police list of "banned" religious books has been made public. Most of the banned books are Islamic texts such as those by Nursi, but the list also includes the Old Testament and Jehovah's Witness texts (see F18News 6 May 2014 http://www.forum18.org/archive.php?article_id=1955).

Despite these and other long-standing systemic multiple violations of its Council of Europe obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms, Azerbaijan takes the rotating Chair of the Council of Europe on 14 May.

No answers

The criminal investigation of Hajiyev and Mammadov is in the hands of NSM investigator Nadir Mustafayev. However, his telephone went unanswered each time Forum 18 called between 6 and 8 May. The telephone of the NSM secret police press office in Baku likewise went unanswered each time Forum 18 called on 8 May.

Forum 18 was thus unable to find out why the NSM secret police thinks the two men should be investigated for possible criminal

prosecution simply for meeting with others to discuss their faith, why the NSM thinks they need to be held in pre-trial detention as the investigation proceeds, and why at least one of the 10 summoned for questioning was beaten to pressure him to sign what he insists was a false statement.

Raids, arrests, fines

Hajiyev and Mammadov have been under arrest since a 12 April armed police raid on Muslims studying Nursi's writings in Hajiyev's Baku home. On 14 April, Baku's Sabail District Court ordered that they be held for two months in pre-trial detention (see F18News 28 April 2014 http://www.forum18.org/archive.php?article_id=1952).

The Baku raid was one of three known police raids in April on Muslims who study Nursi's works. In addition to the NSM arrests of Hajiyev and Mammadov, at least 11 others present in the raided homes have been fined, nine in Baku, at least one in Goychay and one in Qazax. A further individual in Qazax was imprisoned for seven days (see F18News 28 April 2014 http://www.forum18.org/archive.php?article_id=1952).

No religious books allowed

Both Hajiyev and Mammadov have been held since their arrest at Baku's NSM secret police investigation prison. "Conditions there for my client are OK, and he has not been beaten," Hajiyev's lawyer Nizami Abbasov told Forum 18 on 8 May. "However, he wanted to have the Koran and other religious books, but that was forbidden. He is not allowed any books." Abbasov added that Hajiyev is not prevented from praying.

As Forum 18 was unable to reach the NSM press officer or investigator in the case against Hajiyev and Mammadov, it was unable to find out why Hajiyev is being denied access to religious literature of his choice while in detention.

The NSM secret police Investigation Prison is on the upper floor of the main NSM building in Baku. It was among Azerbaijan's prisons visited by a delegation from the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment in December 2012. However, the Azerbaijani government has refused to allow it to publish its report of the visit.

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Strasbourg appeal

Baku Appeal Court rejected Hajiyev's appeal against his arrest and pre-trial detention on 23 April. His lawyer Abbasov received the written decision only on 7 May. "We are now discussing how to proceed, and we are preparing to lodge an appeal to the European Court of Human Rights in Strasbourg," Abbasov told Forum 18.

"The arrest and detention were both illegal," he insists. He points out that many works by Nursi were confiscated as "illegal" during the raid. "But we have assessments from the State Committee for Work with Religious Organisations approving these works in Azerbaijan" (see F18News 28 April 2014 http://www.forum18.org/archive.php?article_id=1952).

Eleventh known April Muslim fine

On 30 April, Judge Elnur Jebiyev of Qazax District Court found 35-year-old Murad Agayev guilty under Administrative Code Article 299.0.2. This punishes "violating legislation on holding religious meetings, marches, and other religious ceremonies" with fines for individuals of between 1,500 and 2,000 Manats (see Forum 18's Azerbaijan's religious freedom survey at http://www.forum18.org/archive.php?article_id=1690).

Agayev's only "offence" was that he reads Nursi's works (see F18News 28 April 2014 http://www.forum18.org/archive.php?article_id=1952). He was fined 1,500 Manats, fellow Muslims told Forum 18.

A fine of 1,500 Manats (11,250 Norwegian Kroner, 1,400 Euros or 1,900 US Dollars) represents nearly four months' average wages,

according to the State Statistics Committee.

On 18 April, the same judge at the same court had sentenced another man detained during the previous day's raid on Agayev's home, 45-year-old Aqil Ahmadov, to seven days' imprisonment. He was punished for "resisting the police" under Administrative Code Article 310.1 (see F18News 28 April 2014 http://www.forum18.org/archive.php?article_id=1952).

Appeals against fines rejected, postponed

In addition to being questioned by the NSM secret police in the criminal investigation of Hajiyev and Mammadov, Vahabli was also one of nine Muslim readers of Nursi's works fined for taking part in the 12 April meeting in Hajiyev's Baku home raided by armed police.

All nine – Vahabli, Ferrukh Yarali, Revan Sabzaliyev, Latif Novruzov, Rustam Rajabzade, Ruslan Salmanov, Abulfaz Asgarli, Parvin Yunusov and Ibrahim Abdullayev - were fined 1,500 Manats each at Baku's Yasamal District Court on 14 April. All were punished under Administrative Code Article 299.0.2 (see F18News 16 April 2014 http://www.forum18.org/archive.php?article_id=1948). All nine lodged appeals to Baku Appeal Court in late April.

Vahabli's was one of the first two appeals due to have been heard at Baku Appeal Court. Initially set for 7 May, his appeal was postponed until 8 May, when Judge Aflatun Qasimov left the conviction and fine unchanged.

"Even before the appeal, the bailiffs at the lower court were demanding that I pay the fine," Vahabli complained to Forum 18.

Judge Vuqar Mammadov was due to hear Yarali's appeal on 7 May. However, this was postponed until 8 May and then again until 12 May, according to the court website. Judge Mammadov is due to hear the appeal of another of the nine, Abdullayev, on 14 May.

Conscientious objector sentenced

On 16 April, Judge Vugar Ahmadov of Jalilabad Military Court in southern Azerbaijan sentenced Jehovah's Witness conscientious objector Shikhaliyev to one year in a disciplinary military unit, the court chancellery told Forum 18 on 8 May. He was punished under Criminal Code Article 335.1 ("Evasion of military service by causing harm to health or in another way").

Conditions in disciplinary military units are governed by Articles 138-153 of the Code of Enforcement of Punishments. These specify that those held there are allowed to write letters and make phone calls, and receive periodic visits. They can be required to work in the military unit and can be punished for failing to abide by the rules, most seriously by up to ten days in solitary confinement.

However, Jehovah's Witnesses – who reject any activity linked to the military – would find any assigned work within the military unit and military training that might be ordered as unacceptable. In addition, while in the disciplinary military unit, individuals are assumed to be members of the armed forces, which would contradict Jehovah's Witnesses' conscientiously-held beliefs.

On 6 May, Shikhaliyev's lawyer filed an appeal against his conviction to Shirvan Appeal Court, Jehovah's Witnesses told Forum 18. "The appeal arrived by post today, and we will send it on to the Appeal Court within ten days," the Jalilabad Military Court chancellery told Forum 18. The official told Forum 18 that Judge Ahmadov was unavailable.

Forcibly conscripted

Shikhaliyev, a Jehovah's Witness from Baku, rejected compulsory military service on grounds of religious conscience. He was seized at the city's Nizami District Conscription Office on 10 October 2013 as he responded to a call-up notice, two days after his 18th birthday. Officials denied to Forum 18 that he had been detained, just sent to a military unit. He was eventually transferred to Military Unit No. 704 in Lankaran in south-eastern Azerbaijan (see F18News 10 February 2014 http://www.forum18.org/archive.php?article_id=1926).

Azerbaijan has failed to honour its commitment to the Council of Europe ahead of its accession in January 2001 "to adopt, within two years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors presently serving prison terms or serving in disciplinary battalions, allowing them instead to choose (when the law on alternative service has come into force) to perform non-armed military service or alternative civilian service".

Two Council of Europe bodies - the Venice Commission and the European Commission against Racism and Intolerance – have condemned Azerbaijan's failure to introduce a civilian alternative to military service. The United Nations Human Rights Committee has been among other bodies also to criticise Azerbaijan, including for this failure (see F18News 10 February 2014 http://www.forum18.org/archive.php?article_id=1926).

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Convention for the Protection of Human Rights and Fundamental Freedoms

<http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>, Azerbaijan takes the Chair of the Council of Europe on 14 May.

Appeal rejected

Meanwhile, on 5 May Judge Vaqif Mursaqulov of Baku Appeal Court rejected Taleh Bagirov's appeal against his conviction and imprisonment, according to the court website.

The 29-year-old Islamic theologian and preacher Bagirov was arrested with his driver Anar Melikov on 31 March 2013. Melikov was given a 19-month prison term in August 2013. Bagirov was given a two-year strict regime prison sentence on 1 November 2013. He was found guilty of possessing just over one gram of heroin, in an accusation his supporters insist was fabricated to punish him for his religious and political activity (see F18News 7 November 2013 http://www.forum18.org/archive.php?article_id=1894). (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1690.

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 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.

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