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AZERBAIJAN: Seven months' secret police detention so far, three more added

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

A court in Azerbaijan's capital Baku ruled that two female Jehovah's Witnesses – imprisoned for seven months already at the secret police Investigation Prison – can now be held for a further three months, Jehovah's Witnesses told Forum 18 News Service. Ten months is the maximum they can be held in pre-trial detention. The two – 54-year-old Irina Zakharchenko (a disabled widow) and 37-year-old Valida Jabrayilova – face up to five years' imprisonment for offering religious literature to nearby residents. Forum 18 was unable to reach Judge Rauf Ahmadov to find out why he considered further imprisonment necessary. Two of five Sunni Muslims imprisoned for selling uncensored religious literature have lost their appeals, while the third appeal – by Imam Mubariz Qarayev of Baku's Lezgin Mosque – is due to resume on 11 September. And the long-running trial of five further Sunni Muslims for a religious meeting appears to be close to concluding. "You almost never get an acquittal here," those close to the case told Forum 18. "But if they are to be convicted, we hope that at least they get suspended sentences."

On 4 September, a court in Azerbaijan's capital Baku extended the pre-trial detention of two female Jehovah's Witness prisoners of conscience for a further three months, Jehovah's Witnesses told Forum 18 News Service from Baku on 8 September. The two – 54-year-old Irina Zakharchenko (a disabled widow) and 37-year-old Valida Jabrayilova – have been imprisoned at the National Security Ministry (NSM) secret police Investigation Prison in Baku since February to punish them for talking to residents near their homes about their faith in December 2014.

The two women face criminal prosecution and up to five years' imprisonment if convicted in any eventual trial of offering uncensored religious literature to others.

Seven months is the maximum individuals accused of such a "less serious crime" can normally be held in pre-trial detention, according to Article 159 of the Criminal Procedural Code, though this can be extended "in exceptional circumstances" by a maximum further three months. This means that no further court-ordered extension of Zakharchenko and Jabrayilova's pre-trial detention should occur.

Another prisoner of conscience arrested for exercising the right to freedom of religion or belief, a Shia Muslim, similarly remains in detention at the NSM secret police Investigation Prison in Baku (see below).

The duty officer at the NSM secret police Investigation Prison declined to answer any of Forum 18's questions by telephone on 9 September. He even declined to confirm that the three prisoners of conscience are still alive.

Meanwhile, two of the five Sunni Muslims arrested in February and later imprisoned for selling religious literature without state permission – Azad Qafarov and Salim Qasimov – have had their appeals rejected. The appeal of the third – Imam Mubariz Qarayev – is due to continue at Baku Appeal Court on 11 September. Qasimov was freed in August at the end of his six-month sentence (see below).

And the long-running criminal trial of five further Sunni Muslims accused of holding an unapproved religious meeting in a private home is due to continue in Baku on 14 September (see below).

The jailing of Muslim and Jehovah's Witness prisoners of conscience for their beliefs is part of a broader state crackdown, including the jailing of many other prisoners of conscience, on people exercising human rights Azerbaijan's government has solemn international obligations to protect.

Secret police prisoners of conscience

In the 4 September hearings at Baku's Sabail District Court, Judge Rauf Ahmadov ruled that Zakharchenko and Jabrayilova can be held in pre-trial detention until 17 December, Jehovah's Witnesses told Forum 18. "The two women were taken to the court, but as the hearings were closed, their relatives or friends were banned from attending," they lamented. "Such hearings are normally

closed."

Forum 18 was unable to reach Judge Ahmadov to find out why he considered it necessary to meet the Investigator's request to hold the women in the secret police Investigation Prison for a further three months. Each time Forum 18 called on 9 September, his assistant said he was in a court session.

The same Judge Ahmadov ordered Zakharchenko and Jabrayilova's initial detention for three months on 17 February, the day of the two women's arrest. Judge Elshad Shamayev of Baku's Sabail District Court extended their detention for a further two months on 7 May. On 4 July the same court extended their detention for a further two months - until 17 September (see F18News 10 July 2015 http://www.forum18.org/archive.php?article_id=2079).

The other known NSM secret police prisoner of conscience arrested for exercising the right to freedom of religion or belief is 43-year-old Shia Muslim Jeyhun Jafarov. He was arrested in March 2015 to punish him for being a translator of Islamic works and public broadcasts.

Sabail District Court ruled in July that Jafarov can be held in pre-trial detention until 11 November (see F18News 10 July 2015 http://www.forum18.org/archive.php?article_id=2079).

Criminal investigations

Zakharchenko and Jabrayilova are being investigated on criminal charges of going from door to door in the Baku suburb of Pirallahi on 5 December 2014, discussing their faith and offering religious literature without state permission (see F18News 23 February 2015 http://www.forum18.org/archive.php?article_id=2041).

The NSM secret police is investigating Zakharchenko and Jabrayilova under Criminal Code Article 167-2.2.1. This punishes: "Production, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation" when conducted by an "organised group". Punishment is a fine or imprisonment of two to five years.

The NSM secret police is investigating Jafarov on charge of treason under Criminal Code Article 274. If tried and convicted, he faces imprisonment of between 12 years and life.

The NSM Investigation Prison where Jafarov, Zakharchenko and Jabrayilova are being held (and where the five Sunni Muslim booksellers had been held until their trials, and three of the five Sunni Muslims now on trial in Baku for holding a religious meeting were held in 2014) is located on the upper floor of the main NSM secret police building in Baku. The prison address is:

Milli Təhlükəsizlik Nazirliyinin

İstintaq Təcridxanası

Parlament Prospekti 14

Baku AZ-1006

Azerbaijan

While Jafarov has been allowed to have a copy of the Koran, he has been denied any other religious literature while in the NSM Investigation Prison. Zakharchenko and Jabrayilova have been denied any religious literature at all. Fellow Jehovah's Witnesses tried to hand in a copy of the Bible for them, but prison guards rejected it. Jehovah's Witnesses have repeatedly expressed concern about both women's emotional well-being (see F18News 11 August 2015 http://www.forum18.org/archive.php?article_id=2088).

Another appeal fails

The five Sunni Muslims were arrested in late February in Baku for selling religious literature without the compulsory state registration. They were then held for about five months at Baku's NSM secret police Investigation Prison.

All five – Imam Mubariz Qarayev, Habibullah Omarov, Salim Qasimov, Eyvaz Mammadov and Azad Qafarov – were connected with the Lezgin Mosque in Baku's Old City. Imam Qarayev led prayers there. The authorities have been seeking to forcibly close the Lezgin Mosque, as they have done with many other Sunni Mosques (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061).

At separate trials at Narimanov District Court and Yasamal District Court beginning in mid-May, Qafarov was given a 15-month jail term, Omarov and Imam Qarayev one-year jail terms, Mammadov a nine-month jail term and Salim Qasimov a six-month jail term.

All the sentences were to be served in general regime labour camps.

All the five Sunni Muslim prisoners of conscience were tried and convicted under Criminal Code 167-2.1. This punishes: "Production, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation". Punishments for first time offenders acting alone are a fine of 5,000 to 7,000 Manats, or up to two years' imprisonment.

Baku Appeal Court rejected Qasimov's appeal against his six-month jail term on 30 July (see F18News 11 August 2015 http://www.forum18.org/archive.php?article_id=2088).

The appeal by the second of the five prisoners of conscience has also failed. On 24 August Judge Mirzali Abbasov of Baku Appeal Court rejected Qafarov's appeal against his 15-month jail term, according to court records. The appeal had been due to continue on 31 August, but the preliminary hearing turned into the only hearing.

Third appeal continues

The appeal of the third, Imam Qarayev, began under Judge Aflatun Qasimov at Baku Appeal Court on 28 August, with a further hearing on 4 September. The next hearing is due on the afternoon of 11 September, according to court records. It remains unclear if the authorities are deliberately timing the appeal hearings for late morning or early afternoon on Fridays to prevent Imam Qarayev's participation in Friday prayers in prison.

Omarov chose not to lodge an appeal as he hopes for early conditional release, friends of the five men told Forum 18 from Baku. Mammadov is not known to have appealed against his nine-month prison term. As pre-trial detention counts towards the sentence and as he had been arrested on 24 February, Mammadov's sentence is due to expire on 24 November.

One freed at end of sentence, four others in prison

As pre-trial detention counts towards the sentence and as he had been arrested on 24 February, Qasimov's six-month prison sentence expired on 24 August. He was then freed, those who know the five men told Forum 18 from Baku.

After their trials, Omarov and Imam Qarayev are known to have been transferred to Investigation Prison No. 1 at Kurdakhani in Baku's Sabunchu District. Their friends told Forum 18 that they believe Qafarov and Mammadov are also being held at Kurdakhani Investigation Prison. Its address is:

AZ-1104, Baki shahari

Sabunchu rayonu

Zabrat-2 qasabasi

Baki Istintaq tacridxanasi

Azerbaijan

"The prison authorities are very harsh towards Mubariz," one of Imam Qarayev's friends told Forum 18 from Baku. Friends had handed in a copy of the Koran for him, but do not know if it has been given to him.

Long-running trial

The long-running trial in Baku of five Sunni Muslims facing punishment for a religious meeting is due to continue under Judge Akshin Afandiyev at Baku's Yasamal District Court on 14 September, those close to the case told Forum 18 from Baku on 9 September. A hearing had been due on 7 September but the prosecutor told the court that he was not ready and the hearing was postponed for a week.

The five - Eldeniz Hajiyev, Ismayil Mammadov, Revan Sabzaliyev, Zakariyya Mammadov and Shahin Hasanov – are on trial to punish them for participating in a study session of the works of the late Turkish theologian Said Nursi in Hajiyev's Baku home in April 2014.

Armed police raided the meeting, detained all those present and confiscated religious literature. Nine participants were fined. Three of the five defendants in the criminal trial - Hajiyev, Ismayil Mammadov and Sabzaliyev - spent up to five months in detention in the NSM secret police Investigation Prison in Baku before being transferred to house arrest in September 2014 (see F18News 22 September 2014 http://www.forum18.org/archive.php?article_id=1999).

All five have been living at their homes under restrictions during the long trial. Their movements are monitored by police. They cannot leave the country and need permission to travel outside Baku.

Hajiyev and Ismayil Mammadov are being prosecuted under Criminal Code Article 167-2.2.1 and Article 168.2. Sabzaliyev is being prosecuted under Criminal Code Article 168.2. Zakariyya Mammadov and Hasanov are being prosecuted under Criminal Code Article 167-2.2.1 and Article 168.1. The Mammadovs are brothers.

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).

Article 167-2.2.1 punishes: "Production, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation" when conducted by an "organised group". Punishment is a fine or imprisonment of two to five years.

"You almost never get an acquittal here"

The criminal trial of the five began with a preliminary hearing on 10 December 2014. Since then, numerous hearings have taken place. "More than 30 witnesses needed to be questioned," those close to the case explained to Forum 18. "Only five of them spoke against the men – they were the ones classified as 'victims' because they couldn't get past the house because so many cars were parked there."

Forum 18 pointed out that the men are being prosecuted for their religious activity, not because of any parking problems a meeting might have caused. "Prosecutors regard the parking problem as a violation of people's human rights. They wanted to show that the many violated others' rights."

Those close to the case say verdicts are likely soon. "The five will definitely be convicted," one told Forum 18. "You almost never get an acquittal here. But if they are to be convicted, we hope that at least they get suspended sentences." (END)

For more background information see Forum 18's July 2015 Azerbaijan religious freedom survey at http://www.forum18.org/archive.php?article_id=2081.

More coverage of freedom of thought, conscience and belief in Azerbaijan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=23>.

See also the Norwegian Helsinki Committee/Forum 18 report on freedom of religion or belief in Azerbaijan at: http://www.nhc.no/content/uploads/2018/07/Rapport2_15_Aserbajdsjan_web.pdf

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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