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ARMENIA: Appeal court doubles Jehovah's Witness sentence

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

The lawyer for Jehovah's Witness Hambartsum Odabashyan, whose sentence for refusing military service on grounds of his faith was doubled today (1 April) to three years in labour camp, has described the sentence as "illegal". "The court took no account of Armenia's obligations to the Council of Europe to end the sentencing of conscientious objectors," Razmik Khachaturyan told Forum 18 News Service. But foreign ministry spokeswoman Dziunik Agadjanian denied that the continuing sentencing of conscientious objectors has caused conflict with the Council of Europe. "It does not violate our commitments," she told Forum 18 and pledged that a "full stop" would be put to the practice of imprisoning conscientious objectors by the end of 2003. A Council of Europe official told Forum 18 that the Armenian authorities' claim that imprisoning conscientious objectors did not violate their commitments was "absurd". "It is unacceptable. How can this continued sentencing be in line with the commitments Armenia made?"

The lawyer for Jehovah's Witness Hambartsum Odabashyan, whose sentence for refusing military service on grounds of his faith was doubled today (1 April) to three years in labour camp, has described the sentence as "illegal". "The trial was very bad and uncivilised," Razmik Khachaturyan, who represented Odabashyan at the appeal court in the Armenian capital Yerevan, told Forum 18 News Service on 1 April. "The court took no account of Armenia's obligations to the Council of Europe to end the sentencing of conscientious objectors." But foreign ministry spokeswoman Dziunik Agadjanian denied that the continuing sentencing of conscientious objectors has caused conflict with the Council of Europe. "It does not violate our commitments," she told Forum 18 from Yerevan on 1 April.

Agadjanian pledged that a "full stop" would be put to the practice of imprisoning conscientious objectors by the end of 2003, by which time a new law on alternative service would be adopted. "There is time to ensure a good law is adopted to make sure this issue does not arise again."

Odabashyan is the seventh Jehovah's Witness to receive a long prison sentence since the beginning of this year for refusing to perform compulsory military service. With eleven Jehovah's Witnesses now serving long sentences in labour camp for refusing military service, a further seven in pre-trial detention and five more awaiting trial at home, with a further eight who have been freed early from labour camp but who have to report regularly to police and have had their passports withheld, Armenia has the worst record of all the post-Soviet republics for imprisoning conscientious objectors.

Khachaturyan reported that on 2 April another Jehovah's Witness, Haik Bukharatyan, is due to stand trial at the Malatia-Sebastia district court in Yerevan. However, Khachaturyan is more optimistic about his case, noting that no conscientious objector cases have been heard in that court for more than a year and the prosecutor is more sympathetic.

Odabashyan had originally been sentenced on 3 March to one and a half years in prison by judge Gor Hakopyan of the Arabkir and Kanaker-Zeytun district court in Yerevan. He was sentenced under Article 75 part 1 of the criminal code, which punishes "evasion of active military service" with a penalty of up to three years' imprisonment. However, the prosecutor appealed against the sentence as "too mild". Odabashyan has now received the maximum sentence.

Khachaturyan claimed the three judges at the appeal court – Surik Kazaryan (the chairman), together with another Kazaryan and Melik-Sarkisyan – "hate Jehovah's Witnesses", especially in the wake of the failed attempt to imprison leading Jehovah's Witness Levon Markaryan. "The same Surik Kazaryan was one of the judges at Markaryan's trial last year," Khachaturyan noted. "The appeal court doesn't like the fact that they had to let him go."

The continuing arrests and sentences imposed on conscientious objectors violate commitments Armenia took on when it joined the Council of Europe. On accession in January 2001, Armenia had pledged to adopt a law on alternative service within three years and in the meantime to free all conscientious objectors from prison. An official of the Council of Europe involved in the issue of conscientious objection, who preferred not to be named, told Forum 18 from Strasbourg that the Armenian authorities' claim that imprisoning conscientious objectors did not violate their commitments was "absurd". "It is unacceptable. How can this continued sentencing be in line with the commitments Armenia made?"

The official pointed out that although the European Convention on Human Rights does not require governments to provide a civilian

alternative to military service, the Council of Ministers made a recommendation fifteen years ago and published guidelines encouraging governments to introduce alternative service. The official pointed out that Armenia had also made specific commitments over this.

"Armenia's obligations on alternative military service will be fulfilled in accordance with the timeframes agreed with the Council of Europe," pledged Ara Sarapelian, spokesman for the justice ministry. He told Forum 18 from Yerevan on 1 April that a new law on alternative service was being drafted and would be adopted in the second half of 2003 ahead of the adoption of a new criminal code. He said the commission drafting the text is headed by the first deputy defence minister, Mikael Harutyunyan.

Agadjanian told Forum 18 that the draft law would not be adopted until the text has been agreed with the Council of Europe. "The draft law also has to comply with Armenian laws – there should be harmonisation." She did not explain what would happen if there was a difference between the Council of Europe position and current laws.

An official of the Council of Europe's human rights directorate told Forum 18 on 1 April that Armenia had sent the text of the draft law to Strasbourg in March and the text was now being sent to Council of Europe experts for review. The official said the Council of Europe had received the text on a confidential basis and could therefore not share it with Forum 18.

It remains unclear whether – given the defence ministry hand in drafting the new law – it will be acceptable to the Jehovah's Witnesses and others who reject military service on grounds of conscience. Both Agadjanian and Sarapelian were unable to say whether the law would allow alternative service to take place in a genuinely civilian set-up outside the framework of the military, or whether it would consist of unarmed service within the military as the defence ministry prefers.

"The Council of Europe does not specify that alternative service must be civilian," Agadjanian claimed. "There are many different models in Council of Europe countries." However, the Council of Europe official strongly disagreed. "Service within a military framework is not acceptable. It is foreseen that service must be offered outside the military and must be a real civilian alternative." The official also insisted that any alternative service cannot be longer than military service. "If it is any longer it is punitive. It is clear that is unacceptable."

Khachaturyan was sceptical about any new law. "I don't believe they will adopt a new law – or if they do it will be so humiliating that it will be unacceptable for Jehovah's Witnesses." He stressed that Jehovah's Witness young men would only accept a genuine civilian alternative service. "There must be no connection with the military whatsoever." He added that the alternative service should not be longer than military sentence, which is currently two years. He noted that a television programme earlier in the year had reported that alternative service would be three and a half years long and would consist of duties such as cleaning toilets.

The Jehovah's Witnesses have repeatedly been denied registration as a religious organisation in Armenia over the past decade because their members choose not to perform military service. Sarapelian said that because of the Jehovah's Witness position on military service their registration applications have not been in accordance with the registration regulations. "As soon as they bring their application into line with the regulations, they will be registered," he declared. "Believers' rights have not been violated. If they believe they have been violated they can go to court – we have an independent judiciary here."

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