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AZERBAIJAN: Two women fined for religious work with children

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

A Baku court fined Shola Jafarova two months' average wage for holding mourning meetings in the Muslim holy month of Muharram and organising children to sing a mourning song uploaded to social media. A Goychay court similarly fined Samira Jafarova for a social media video with 15 children performing a lamentation for Imam Hussain (the third Imam of Shia Islam). She told her appeal hearing that "holding a religious ceremony is her right arising from the Constitution", but the court rejected her appeal.

Of the 20 individuals known to have been fined in 2022 for exercising freedom of religion or belief, two were fined for organising religious events involving children. Both are Shia Muslim women. A Baku court fined Shola Jafarova about two months' average wage for holding mourning meetings in the Muslim holy month of Muharram and organising children to sing a mourning song uploaded to social media.

Muslims helped collect money to pay Shola Jafarova's fine. In addition to the fine, Jafarova had to pay an extra 105 Manats because of confusion over her surname in the court decision (see below).

An official of the local Baku office of the State Committee for Work with Religious Organisations – who did not give her name – told Forum 18 on 13 December that the head Anar Kazimov was not in the office. She said she was unable to comment on Shola Jafarova's case (see below).

A court in the central town of Goychay fined Samira Jafarova about two months' average wage for recording and publishing on social media a video with 15 children performing a lamentation for Imam Hussain (the third Imam of Shia Islam) (see below).

Jafarova told Sheki Appeal Court that the parents of the 15 children had all consented to their participation and that the rites had not "negatively affected the rules of social morality, or the physical and mental health and education of the participants". She added that "holding a religious ceremony is her right arising from the Constitution and other Azerbaijani laws", according to the decision seen by Forum 18. The Court rejected her appeal (see below).

Ilham Qaribov, the regional representative of the State Committee, who is based in the nearby town of Ujar, said he had not heard of Samira Jafarova's case. "I'm hearing of it from you for the first time," he told Forum 18. He said he could not comment on the prosecution and fine because he had not seen the court decision. He took details of the case and promised to look into it. However, on 13 December he refused to discuss the case. "I don't know you," he told Forum 18, before putting the phone down (see below).

A court in Sumgait fined a local resident about two months' average wage for teaching religion to eight children (see below).

Courts handed down the 20 known fines so far in 2022 (https://www.forum18.org/archive.php?article_id=2794) to punish the exercise of freedom of religion or belief (plus one acquittal) in various parts of Azerbaijan:

- 11 fines in Quba;
- 4 fines in Agdash, plus one acquittal;
- 1 fine in Oguz;
- 1 fine in Zaqatala;
- 1 fine in Goychay (see below);
- 1 fine in Baku (see below).
- 1 fine in Sumgait (see below).

The fines were equivalent to about two months' average wage for those in formal work. However, for people in rural areas, those without a formal job, or pensioners, such fines represent a far heavier financial burden.

Baku-based lawyer Asabali Mustafayev is preparing cases to the European Court of Human Rights in Strasbourg (ECtHR) on behalf of 11 Muslims fined in Quba on 10 October for meeting for worship, as well as one Muslim fined in Oguz on 1 September for hosting a meeting for worship in his home. He hopes to lodge the cases by January 2023 (see below).

The lawyer Mustafayev lodged a case to the ECtHR in July after a fine on a Muslim reader of the works of the late Turkish theologian Said Nursi for hosting a meeting in his home in September 2021 which was raided by police (see below).

On 10 November 2022, the ECtHR accepted Azerbaijan's agreement to pay compensation to Baku's Jehovah's Witness community and two individuals for rejecting the community's re-registration application in February 2010. The regime is to pay the community compensation and costs of 5,500 Euros (see below).

Nine cases from Azerbaijan – lodged between 2014 and 2022 - are known to be awaiting decisions at the ECtHR (see below). The cases relate to:

- Jailed for exercising freedom of religion or belief (1 case involving 1 individual applicant)
- State censorship of religious literature (1 case involving 1 individual applicant)
- Raid on and punishments for meetings for worship (3 cases involving 3 individual applicants)
- Jailed for leading prayers or religious meetings (3 cases involving 5 individual applicants)
- Unlawful house search (1 case involving 1 individual applicant)

On 1 November, the United Nations (UN) Human Rights Committee found that the regime had violated the rights of six Jehovah's Witnesses after police raided a meeting for worship in a Baku home in 2015. A court handed five of them an official warning, while the sixth - a Georgian citizen - was deported (see below).

In two 2021 decisions, the UN Human Rights Committee found that the regime had violated the rights of four Jehovah's Witness women (https://www.forum18.org/archive.php?article_id=2726) given large fines for discussing their faith with others. It instructed that they be compensated.

Baku: Fined for religious work with children

The regime has punished a Baku-based Shia Muslim Shola Jafarova for her religious work with children.

Jafarova gathered children during the Muslim holy month of Muharram for mourning meetings, as well as on Qadir-Khum Eid, the day Shia Muslims celebrate the Muslim Prophet Muhammad's designation of Ali as his successor. She also gathered children to perform the song "Salam Farmandeh" (about Muhammad al-Mahdi), which was uploaded to social media.

On 9 August, officers from Police Station No. 27 of Baku's Yasamal District detained Jafarova. After interrogating her, officers drew up a record of an offence against her under Administrative Code Article 515.0.3. This punishes "clergy and members of religious associations holding special meetings for children and young people, as well as the organising or holding by religious bodies of organised labour, literary, or other clubs and groups unassociated with holding religious ceremonies".

Officers then sent Jafarova's case to Yasamal District Court. On 2 September, the Judge found her guilty under Administrative Code Article 515.0.3 and fined her the minimum fine of 1,500 Manats (two months' average wage), according to case documents seen by Forum 18. The court decision gave her name as Shola Sabziyeva.

An official of the local Baku office of the State Committee for Work with Religious Organisations – who did not give her name – told Forum 18 on 13 December that the head Anar Kazimov was not in the office. She said she was unable to comment on Jafarova's case.

The telephone of the head of Yasamal District Police Station No. 27 went unanswered each time Forum 18 called between 8 and 13 December.

Muslims helped collect money to pay Shola Jafarova's fine. In addition to the fine, Jafarova had to pay an extra 105 Manats because of confusion over her surname in the court decision. "Shola repeatedly wanted to pay this fine after collecting it," the local Islamic World News website noted on 22 October. "However, the authorities raised the issue of the incorrect surname and caused the issue

of late payment of his fine."

Goychay: Fined for memorial video

The regime has punished a 35-year-old Shia Muslim Samira Jafarova in Goychay District of central Azerbaijan for her religious work with children.

In the summer, the State Security Ministry secret police threatened Jafarova, who is from the village of Ashagi Qaramaryam, over the publication on social media of her videos on religious themes.

On 28 August, at the end of the Muslim holy month of Muharram, Jafarova made a video with a group of 15 children from religious families in an open field with a lamentation for Imam Hussain (the third Imam of Shia Islam). She published the video on social media.

On 31 August, Goychay District police raided Jafarova's home in the village. They threatened her with a fine of 1,500 Manats (equivalent to two months' average wage) and arrest. Officers took to the police station Jafarova's husband and teenage son, as well as several parents of children in the video, Islamic World News website noted.

Officers abused the husband and son at the police station, Islamic World News claimed. They demanded that the video be removed from YouTube. Officers repeated their insistence, sending messages via Jafarova's husband and son. Jafarova refused to remove the video, complaining about the demands on social media. Police threatened that Jafarova would be fined. Police then released the parents of the children in the video. The police chief then went to Jafarova's house and took her to the police station. After she wrote a statement, officers released her and her family.

On 1 September, police again took Jafarova to the police station and changed the statement received the previous day and wrote a long statement. Then they took her to Goychay District Court.

At the Court, Judge Ibrahim Fattahov found Jafarova guilty under Administrative Code Article 515.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies"). He fined her the minimum fine of 1,500 Manats (two months' average wage), according to the decision seen by Forum 18.

Judge Fattahov also threatened Jafarova with imprisonment if she continued her activities.

On 29 September, Samira Jafarova told Sheki Appeal Court that the parents of the 15 children had all consented to their participation and that the rites had not "negatively affected the rules of social morality, or the physical and mental health and education of the participants". She added that "holding a religious ceremony is her right arising from the Constitution and other Azerbaijani laws". However, Judge Gunduz Abbasov rejected Jafarova's appeal, according to the decision seen by Forum 18.

Ilqar Quliyev, listed as the police officer for Qaramaryam, told Forum 18 he had moved to a different area in 2022 and knew nothing about the case against Jafarova. Telephones at Goychay District police went unanswered each time Forum 18 called between 8 and 13 December.

Ilham Qaribov, the regional representative of the State Committee, who is based in the nearby town of Ujar, said he had not heard of Jafarova's case. "I'm hearing of it from you for the first time," he told Forum 18 on 8 December. He said he could not comment on the prosecution and fine because he had not seen the court decision. He took details of the case and promised to look into it. However, on 13 December he refused to discuss the case. "I don't know you," he told Forum 18, before putting the phone down.

Sumgait: Fined for teaching religion to children

On 23 October, an official of the Sumgait office of the State Committee raided a home in the city and found a local resident teaching religion to eight children. The official drew up a record of an offence under Administrative Code Article 515.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies"). The case was then handed to court.

At Sumgait City Court on 3 November, Judge Rovshan Khalilov found the local resident guilty, handing down the minimum fine of 1,500 Manats (two months' average wage), according to the decision seen by Forum 18. The case was considered in the resident's absence.

Further cases to European Court of Human Rights

At least 12 of those fined in 2022 are preparing to take their cases to the European Court of Human Rights in Strasbourg (ECtHR). Baku-based lawyer Asabali Mustafayev is preparing cases on behalf of 11 Muslims fined in Quba on 10 October for meeting for worship, as well as one Muslim fined in Oguz on 1 September for hosting a meeting for worship in his home.

All 12 Muslims were fined the minimum fine of 1,500 Manats (https://www.forum18.org/archive.php?article_id=2794) (about two months' average wage). Appeal Courts rejected their appeals. Appeal Court decisions are final and cannot be appealed to the Supreme Court.

Mustafayev hopes to lodge the cases to the ECtHR by January 2023, he told Forum 18 from Baku on 13 December.

Latest case to European Court of Human Rights

On 21 July, the lawyer Mustafayev lodged a case to the ECtHR on behalf of 53-year-old Salman Abdullayev, a Muslim reader of the works of the late Turkish theologian Said Nursi. He hosted a meeting in his home on 3 September 2021 which was raided by police and an official from the Baku City Department of the State Committee for Work with Religious Organisations. Police took them all to the police station, where some were given summary fines for allegedly violating coronavirus regulations.

Police brought a case against Abdullayev under Administrative Code Article 515.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies"). On 2 December 2021, a judge at Baku's Surakhani District Court fined him the minimum fine of 1,500 Manats (two months' average wage). Abdullayev appealed against the fine, but on 27 January 2022, Judge Ziya Shirinov of Baku Appeal Court rejected the appeal, according to the decision seen by Forum 18.

ECtHR "friendly settlement" over re-registration denial for Baku community

On 10 November, the European Court of Human Rights in Strasbourg accepted Azerbaijan's agreement to pay compensation (<https://hudoc.echr.coe.int/eng?i=001-221048>) to Baku's Jehovah's Witness community and two individuals for rejecting the community's re-registration application in February 2010. The "friendly settlement" came in the case of Moroz and Others v. Azerbaijan (Application No. 49264/12).

The regime submitted its terms for the "friendly settlement" on 20 December 2021, under which it agreed to pay 5,500 Euros in compensation and costs. "The Court takes note of the friendly settlement reached between the parties," the 10 November 2022 decision notes. "It is satisfied that the settlement is based on respect for human rights as defined in the [European] Convention [on Human Rights and Fundamental Freedoms] and the Protocols thereto and finds no reasons to justify a continued examination of the application."

Baku's Jehovah's Witness community was first registered in December 1999 and gained the compulsory re-registration in February 2002. It applied for another compulsory re-registration in November 2009 (https://www.forum18.org/archive.php?article_id=1389), but the State Committee rejected the re-registration application in February 2010 (https://www.forum18.org/archive.php?article_id=1429), after which the community went to court. After nearly two years from 2010 of unsuccessful legal challenges to the State Committee (https://www.forum18.org/archive.php?article_id=1632), in February 2012 Jehovah's Witnesses finally lost their case in the Supreme Court (https://www.forum18.org/archive.php?article_id=1689).

Leonid Moroz, another community member, and the Baku community itself then lodged their ECtHR application on 1 October 2012.

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-212587>) about the case on 20 September 2021.

This was the last of many cases Jehovah's Witnesses from Azerbaijan had lodged with the ECtHR.

Although the State Committee finally registered a Jehovah's Witness community in Baku in November 2018, it has repeatedly rejected applications to register any other Jehovah's Witness communities. The State Committee has similarly denied registration to communities of other faiths (https://www.forum18.org/archive.php?article_id=2429). Although it is not specified in any published law, the regime only allows Muslims to exercise their freedom of religion or belief under the control of the state-controlled Caucasian Muslim Board.

Raiding meeting for worship, detentions, court-issued warnings, deportation were violations, says UN Committee

In the latest such decision against Azerbaijan, the United Nations (UN) Human Rights Committee, ruled on 1 November (CCPR/C/136/D/3153/2018 (https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F136%2FD%2F3153%2F2018&Lang=en)) that the regime had violated the rights of six Jehovah's Witnesses by raiding a meeting for worship in a Baku home in April 2015 (https://www.forum18.org/archive.php?article_id=2086). Police took those present to the police station for questioning, and handed cases against six of them - including the home owner Rovshan Mursalov - to court. A judge issued five of them with a warning.

A court handed the sixth - Georgian citizen Goderdzi Kvaratskhelia - a deportation order. He was held overnight and deported the following day.

The UN Committee found that the regime had violated the rights of all six under Article 18 ("Freedom of thought, conscience and religion") of the International Covenant on Civil and Political Rights.

The Committee rejected the regime's assertions that all exercise of freedom of religion or belief without state registration is illegal and that the meeting had been illegal because the state had not registered a religious community at the individual's home.

"The Committee considers that the justifications provided by the State party do not demonstrate how the requirements to be legally registered as an association prior to conducting religious worship were proportionate measures necessary to serve a legitimate purpose within the meaning of article 18 (3) of the Covenant," the decision declares. "The Committee notes that the State party did not advance any argument as to why it was necessary for the [six Jehovah's Witnesses] to first register with the Government before practicing their religion in a community in a private home."

The UN Committee ruled that the deportation of Kvaratskhelia to punish him for exercising freedom of religion or belief "was not proportionate or justified".

"Buying off" complainants

In line with Azerbaijan's legally-binding international human rights obligations, the decisions of both the ECtHR and the United Nations (UN) Human Rights Committee require the regime to change its laws and practices so that freedom of religion and belief violations cannot recur (https://www.forum18.org/archive.php?article_id=2664). Forum 18 is not aware of any proposed government legal or other changes to meet this obligation.

"It is easier a couple of times a year to buy off those few complainants who manage to get to the European Court than to change the well-established system that suits the authorities," Eldar Zeynalov of the Human Rights Centre of Azerbaijan told Forum 18 from Baku in March 2021 (https://www.forum18.org/archive.php?article_id=2647). "And if it is possible to do this without bringing the essence of the problem to public consideration at all, this is ideal for the government. And this is exactly what happens when concluding friendly settlements or when the ECtHR accepts a unilateral declaration from the government."

Nine known cases awaiting ECtHR decisions

The ECtHR in Strasbourg has already completed 63 cases from Azerbaijan submitted since 2004 related to violations of freedom of religion or belief (https://www.forum18.org/archive.php?article_id=2665) and inter-related rights.

Of these 63 completed cases:

- 19 ended in findings of violations and awards of compensation;
- 20 were closed after Azerbaijan admitted violations and offered compensation in a "unilateral declaration";
- 13 were friendly settlements, where the regime agreed to pay compensation (in 1 case it also admitted violations);
- 11 were dismissed or withdrawn (one following the death of the applicant).

In 40 of the 63 concluded cases the ECtHR found that the regime had violated human rights related to the exercise of freedom of religion or belief or the ECtHR accepted the regime's admission that it had violated these rights. The regime has paid the compensation awarded by the ECtHR to the victims. However, the regime has not changed laws (as it is required to do) to prevent a recurrence of such violations.

Nine ECtHR cases related to the regime's violations of freedom of religion or belief are known to remain. The cases – submitted between 2014 and 2022 - cover a wide range of violations. All 9 were lodged by Muslims. Some cases cover more than one violation, such as police seizing religious literature during a raid on a meeting for worship.

In approximate reverse chronological order of violation they are:

- Jailed for exercising freedom of religion or belief (1 case involving 1 individual applicant)
- State censorship of religious literature (1 case involving 1 individual applicant)
- Raid on and punishments for meetings for worship (3 cases involving 3 individual applicants)
- Jailed for leading prayers or religious meetings (3 cases involving 5 individual applicants)

- Unlawful house search (1 case involving 1 individual applicant)

Details of all nine cases are given below.

ECtHR: Jailed for exercising freedom of religion or belief

Babayev v. Azerbaijan (Application No. 19549/22)

The State Security Service (SSS) secret police arrested Shia Muslim Imam Sardar Babayev in October 2021. Prosecutors are investigating him on treason charges, accusing him of cooperating with and taking instructions from an Iranian intelligence agency, and acting against Azerbaijan. Imam Babayev rejects the allegations against him, arguing that they are politically motivated. His lawyer Javadov objected to the continued pre-trial detention.

The ECtHR has not yet asked the regime questions about the case.

ECtHR: State censorship of religious literature

Miriyev v. Azerbaijan (Application No. 1717/20).

In February 2018, the State Committee for Work with Religious Organisations on theological grounds banned the publication and distribution of the book (https://www.forum18.org/archive.php?article_id=2351) "Things Not Existing in Islam" by Muslim theologian Elshad Miri (also known as Miriyev). Repeated legal appeals against the ban failed (https://www.forum18.org/archive.php?article_id=2485). After failing on 20 December 2019 in the Supreme Court to overturn the ban, Miri lodged a case in the ECtHR (https://www.forum18.org/archive.php?article_id=2490).

The ECtHR has not yet asked the regime questions about the case.

ECtHR: Raids on and punishments for meetings for worship

1) Abdullayev v. Azerbaijan (Application No. 38997/22).

A court fined Muslim Nursi reader Salman Abdullayev under Administrative Code Article 515.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies") to punish him for a September 2021 meeting for worship in his home without state permission. He lodged a case to the ECtHR on 21 July 2022 (see above).

The ECtHR has not yet asked the regime questions about the case.

2) Hajiyev v. Azerbaijan (Application No. 21807/18).

A Baku court fined Eldeniz Hajiyev under Administrative Code Article 515.0.2 ("Violating legislation on holding religious meetings, marches, and other religious ceremonies") to punish him for a March 2017 meeting for worship without state permission. He lodged a case to the ECtHR on 27 April 2018.

The ECtHR has not yet asked the regime questions about the case.

3) Rafiyev v. Azerbaijan (Application No. 81028/17 (<https://hudoc.echr.coe.int/eng?i=001-186530>)).

In March 2017, police raided a home in Quba where Muslims who study Said Nursi's works were meeting and seized religious literature. Almost all of those present were fined in March 2017, including Vuqar Rafiyev (https://www.forum18.org/archive.php?article_id=2294).

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-186530>) about the case on 6 September 2018.

ECtHR: Jailed for leading prayers or religious meetings

1) Babayev v. Azerbaijan (Application No. 34015/17 (<https://hudoc.echr.coe.int/eng?i=001-186531>)).

Police arrested Shia Muslim Imam Sardar Babayev in February 2017 for leading prayers in a mosque having gained his religious education outside Azerbaijan (https://www.forum18.org/archive.php?article_id=2295).

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-186531>) about the case on 4 September 2018.

"The government gave its comments, they were sent to us and we in turn gave our comments," his lawyer Javad Javadov told Forum

18 in March 2020 (https://www.forum18.org/archive.php?article_id=2557). He said they are now waiting for the ECtHR to give its judgment.

2) Babayev v. Azerbaijan (Application No. 26896/18). After a court jailed Imam Sardar Babayev in July 2017 for three years, his lawyer lodged this second case (https://www.forum18.org/archive.php?article_id=2353) to challenge the conviction for leading prayers.

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-217506>) about the case on 3 May 2022.

3) Mammadov and Others v. Azerbaijan (Application No. 30498/17).

Police raided a religious meeting in a Baku home by Muslim readers of Said Nursi's works in April 2014. In October 2015, a Baku court jailed Ismayil Mammadov, Eldeniz Hajiyeve, Shahin Hasanov and Zakariyya Mammadov. Their April 2016 appeal hearing reduced their sentences but did not overturn them (https://www.forum18.org/archive.php?article_id=2173). They lodged a case to the ECtHR on 10 April 2017 about their jailing.

The ECtHR has not yet asked the regime questions about the case.

ECtHR: Unlawful house search

Miragayev v. Azerbaijan (Application No. 29550/14 (<https://hudoc.echr.coe.int/eng?i=001-187776>)).

In May 2012 police and the then-National Security Ministry (NSM) secret police raided Zeka Miragayev's Baku home (https://www.forum18.org/archive.php?article_id=1719). Police confiscated 30 copies of the Koran, 24 other books (including some by Said Nursi), a computer, and a small sum of money. After repeated failures of legal challenges to the raid and confiscations (https://www.forum18.org/archive.php?article_id=1820), the ECtHR application concerns the unlawful search of the applicant's flat. Miragayev also notes that he was not duly notified of a hearing before the Supreme Court.

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-187776>) about the case on 24 October 2018. (END)

More reports on freedom of thought, conscience and belief in Azerbaijan (<https://www.forum18.org/archive.php?country=23>)

For background information, see Forum 18's Azerbaijan religious freedom survey (https://www.forum18.org/archive.php?article_id=2429)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments (https://www.forum18.org/archive.php?article_id=1351)

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