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AZERBAIJAN: Will State Committee return religious books seized in 2007?

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

Shukran Mammadov is still waiting for the State Committee for Work with Religious Organisations to return books by Muslim theologian Said Nursi seized in a police raid in 2007. The European Court of Human Rights ruled in his favour in 2020, and on 1 March 2023 Baku Appeal Court ordered the books to be returned. "The government should have ensured that Shukran's property was returned, but few European Court of Human Rights decisions are fully carried out," Mammadov's lawyer Asabali Mustafayev told Forum 18.

Following a 2020 decision by the European Court of Human Rights (ECtHR), a Baku court has ruled that the State Committee for Work with Religious Organisations must return religious books seized from Shukran Mammadov. Police seized the books – by the late Turkish Muslim theologian – during a raid in 2007, and Mammadov was also fined for hosting a religious meeting. The books were then handed to the State Committee.

The ECtHR stated in its December 2020 decision that "the interference with the applicant's possessions could not be considered lawful" (see below).

Despite the ECtHR decision that seizing his books had violated his rights, Mammadov had to go to Azerbaijan's Supreme Court to overturn an earlier refusal to return the books. He then had to go to Baku Appeal Court, which on 1 March 2023 ordered the State Committee to return them. As of 18 July, Mammadov has still not received back his books (see below).

The State Committee failed to respond to Forum 18's question as to when it intends to return Mammadov's books (see below).

"The government should have ensured that Shukran's property was returned, but few European Court of Human Rights decisions are fully carried out," Mammadov's lawyer Asabali Mustafayev told Forum 18. "So on our advice Shukran appealed to the court here. Now he has the decision and it has been sent to be implemented" (see below).

In a Jehovah's Witness religious literature censorship case, the regime claimed to the Council of Europe in July 2022 that "the practice of imposing restrictions on religious literature has become outdated for a while in Azerbaijan". However, the state censorship of all religious literature produced in, distributed in and imported into Azerbaijan remains unchanged (see below).

Elshad Miri, a Muslim theologian who is challenging a State Committee ban on one of his books at the ECtHR, says the religious literature censorship system is still in force. "Nothing has changed in the system," he told Forum 18. "This needs to change – it is not just" (see below).

Eldar Zeynalov of the Human Rights Centre of Azerbaijan agrees. "According to ordinary human logic, if there are some state structures that are responsible for recognising a religious text as 'extremist' and for issuing 'relevant permission' for the production and distribution of religious literature, then this means the presence of 'religious censorship', even if the office of this organisation does not have a sign with that name," he told Forum 18 (see below).

Forum 18 asked Chingiz Asgarov, the government agent to the ECtHR who made this claim to the Council of Europe, why he is claiming this given that the censorship system remains unchanged. Forum 18 reminded him of Article 22 of the Religion Law, which sets out this state censorship. Forum 18 received no immediate response (see below).

Complete religious literature censorship

Under Article 22 of the Religion Law, all religious literature produced in, published in (including on the internet) or imported into Azerbaijan is subject to prior compulsory censorship (https://www.forum18.org/archive.php?article_id=2429). If the State Committee for Work with Religious Organisations "Religious Expert Analysis [Censorship] Department" gives permission to publish or import a work, it also specifies how many copies can be produced or imported.

The Department – which is headed by Nahid Mammadov – employs 8 officials, according to the State Committee website. Officials at the Department told Forum 18 on 17 July that Mammadov was not in the office. They said they were unable to explain why religious books and materials are subject to censorship, or what the 8 officials do.

Publications which have gained State Committee approval indicate this. For example, a Catholic prayer book in Azeri published in 2023 includes a note: "This book was published with the permission of the State Committee for Work with Religious Organisations of the Republic of Azerbaijan (Letter DK-1929/F)." (DK is the Azeri abbreviation of State Committee.)

All religious materials sold must have a sticker (each costing 0.02 Manats) from the State Committee stating that they have its approval for distribution.

As of 18 July, the State Committee website lists 44 shops which it allows to sell religious literature and materials.

Criminal Code Article 167-2 punishes "Production, sale and distribution of religious literature (paper and electronic formats), audio and video materials, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation".

The State Committee regularly announces – without details – how many publications it has approved and not approved. It said it rejected the import of 52 books in 2020, the publication of 16 in 2021 and the publication of 8 and the import of 107 in 2022, claiming that they promoted "religious intolerance". However, it publishes no list of publications it has not approved.

State officials have repeatedly denied that this is censorship.

Elshad Miri, a Baku-based Muslim theologian who is challenging a State Committee ban on one of his books at the European Court of Human Rights (ECtHR) in Strasbourg (see below), says the religious literature censorship system is still in force. "Nothing has changed in the system," he told Forum 18 on 18 July. "This needs to change – it is not just."

Miri said that since the State Committee ban, it has given permission for him to publish two more books. "I wrote to the State Committee and asked to produce 1,000 copies," he said. "They then write back giving the number that they allow to be published. They warn that if you want to publish further copies, you need to come back to them again for permission."

Miri said that on going to a printer with the religious book, "the first thing they ask for is the permission letter from the State Committee". The book has to include a statement that the book has permission from the State Committee with the reference number of the approval.

European Court of Human Rights decision, but no return of religious books

Following a 2020 decision by the European Court of Human Rights (ECtHR) in Strasbourg, a Baku court has ruled that the State Committee must return religious books seized from Shukran Mammadov in 2007.

Mammadov had legally bought the more than 100 books – from Muslim theologian Said Nursi's "Risale-i Nur" [Messages of Light] collection – in a bookshop in Baku. Police seized the books in a raid on a religious meeting in his home in Ujar in July 2007 (for which he was also fined) and handed them to the State Committee for censorship. The State Committee has given varying opinions of Nursi's works (https://www.forum18.org/archive.php?article_id=1964) over the years, at times banning them and others declaring that individuals can import limited quantities.

In December 2020, the ECtHR found that the regime had violated Mammadov's rights (https://www.forum18.org/archive.php?article_id=2647) (Application No. 7308/12 (<https://hudoc.echr.coe.int/eng/?i=001-206272>)) and ordered that the government pay him compensation. The government has paid the compensation, but Mammadov was unable to get back the religious books seized from him.

Shukran Mammadov had earlier unsuccessfully brought legal challenges to recover his books (https://www.forum18.org/archive.php?article_id=1522), but ultimately lost his case at the Supreme Court in August 2011. He revived his attempt to get them back after the ECtHR judgment in December 2020 (https://www.forum18.org/archive.php?article_id=2647).

On 26 November 2021, Asabali Mustafayev wrote on Mammadov's behalf ([https://hudoc.exec.coe.int/ENG/?i=DH-DD\(2022\)12E](https://hudoc.exec.coe.int/ENG/?i=DH-DD(2022)12E)) to the Committee of Ministers of the Council of Europe (which oversees the implementation of ECtHR decisions). He noted that although the regime had paid the compensation awarded to Mammadov because of the violation of his rights, "it has not returned the applicant's possession (religious books)". He pointed out that the ECtHR had stated in its decision that "the interference with the applicant's possessions could not be considered lawful".

Mustafayev noted that Mammadov had repeatedly written to the government's representative Chingiz Asgarov and the Justice Ministry requesting the books' return, but "to no avail". The failure to return them meant that the regime "continues to violate his rights".

"Shukran clearly did not have these books for distribution, as there was only one copy of each title," Mustafayev told Forum 18 from Baku on 11 July 2023. "He bought them legally when they were openly on sale in Baku. The State Committee later banned their mass distribution without any basis. So their confiscation was illegal."

Following the December 2020 ECtHR decision, and given the failure to hand back his books, Mammadov brought a suit against the State Committee to the Plenum of the Supreme Court. He sought to overturn the Supreme Court's rejection of his suit handed down in 2011.

On 30 September 2022, the Plenum of the Supreme Court ruled that earlier court decisions rejecting the return of the books had been incorrect and returned Mammadov's case to Baku Appeal Court.

On 1 March 2023, a panel of three judges at Baku Appeal Court, chaired by Judge Farrukh Qasimov, approved the return of his books. The court "agrees with the evidence of the plaintiff's appeal and notes that the confiscation of books belonging to the plaintiff was illegal, and the plaintiff was entitled to claim back his property illegally held by the defendant [State Committee]", the decision, seen by Forum 18, declares. The court therefore annulled the 2010 court decision against Mammadov.

The State Committee did not appeal against the court decision that the books must be returned, Mammadov's lawyer Mustafayev told Forum 18 on 11 July. "Implementation of this decision is now taking place." It remains unclear when bailiffs will enforce the decision and return Mammadov's books to him. Mammadov had not received them back as of 18 July.

Forum 18 asked the press secretary at the State Committee, Yagut Aliyeva, in writing on 12 July when it intends to return Mammadov's books. It received no reply by the end of the working day in Baku of 18 July.

"The government should have ensured that Shukran's property was returned, but few European Court of Human Rights decisions are fully carried out," Mustafayev told Forum 18. "So on our advice Shukran appealed to the court here. Now he has the decision and it has been sent to be implemented."

"Unilateral declarations", "friendly settlements", and failure to change law and practice

Victims of human rights violations and human rights defenders have complained that, although the regime pays the compensation ordered by the European Court of Human Rights (ECtHR), it does not change law and practices to prevent repeat violations. Thus many cases – such as over punishments for conscientious objectors or religious literature censorship – cover human rights violations that the Court has already ruled on in similar cases.

Jehovah's Witness Seymur Mammadov is considering lodging a case to the ECtHR (https://www.forum18.org/archive.php?article_id=2846) over his conviction and punishment for refusing compulsory military service on grounds of conscience. The ECtHR has already ruled in favour of seven conscientious objectors but the regime has failed to introduce an alternative service for those who cannot perform military service on grounds of conscience.

"The Court pointed out that such a situation in principle calls for legislative action by the respondent State in order to fulfil its obligations to enable the applicants and other persons in the same situation to benefit from the right to conscientious objection", a https://www.forum18.org/archive.php?article_id=2846 Council of Europe report noted of the cases of five of the conscientious objectors.

In recent years the regime has tried to close cases of freedom of religion or belief violations at the ECtHR (https://www.forum18.org/archive.php?article_id=2795) by admitting violations and offering compensation in a "unilateral declaration" or by offering compensation in a "friendly settlement".

In October 2022, the ECtHR closed two cases over import bans of Jehovah's Witness literature (https://www.forum18.org/archive.php?article_id=2647) after the regime offered a "unilateral declaration" which included its "acknowledgement of the fact that there was a violation of the applicants' rights guaranteed under the Convention". The regime offered compensation to Baku's Jehovah's Witness community, but not to the individual applicants who had also been part of the cases to the ECtHR.

"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."

Religious literature censorship cases under Council of Europe "enhanced supervision"

Shukran Mammadov's ECtHR decision is among four cases – another of which relates to censored Jehovah's Witness literature – which are under enhanced supervision by the Council of Europe. The regime submitted an Action Report on 20 July 2022 ([https://hudoc.exec.coe.int/eng?i=DH-DD\(2022\)785E](https://hudoc.exec.coe.int/eng?i=DH-DD(2022)785E)) related to three Jehovah's Witness cases. Chingiz Asgarov, the government agent to the ECtHR, did not respond to the Committee of Ministers on Shukran Mammadov's case.

The regime's Action Report in the three Jehovah's Witness cases claims that it has implemented the ECtHR decisions by paying the compensation awarded by the Court to victims in two of the four cases (both from Jehovah's Witnesses), as well as in another Jehovah's Witness case. Asgarov claims that "no outstanding issues remain unresolved" and asks the Committee of Ministers to close the case.

"Additional information is awaited," the Council of Europe website (<https://hudoc.exec.coe.int/eng?i=004-55457>) as of 18 July 2023 notes in response to the regime's Action Report.

The ECtHR ruled in February 2020 that Azerbaijan had violated the rights of Jehovah's Witnesses by banning three of their publications from import and distribution back in 2008 (Religious Community of Jehovah's Witnesses v. Azerbaijan, Application No. 52884/09 (<https://hudoc.echr.coe.int/eng?i=001-201087>)).

Following the ECtHR's February 2020 judgment, the regime's July 2022 Action Report claimed that "since 2016 no restrictions have been imposed on the Religious Community of Jehovah's Witnesses on importing religious literature. In general, the practice of imposing restrictions on religious literature has become outdated for a while in Azerbaijan".

While the State Committee has not refused Jehovah's Witnesses permission to import specific publications since November 2015, the state censorship of all religious literature produced in, distributed in and imported into Azerbaijan remains unchanged.

Eldar Zeynalov of the Human Rights Centre of Azerbaijan told Forum 18 on 18 July that it is "difficult to accept" the claim that "the practice of imposing restrictions on religious literature has become outdated". He points to Criminal Code Article 167-2 punishing unapproved production, distribution and import of religious materials.

Criminal Code Article 167-2 "is not about just extremist literature, but about any publications of religious content, not even intended for sale", Zeynalov notes. "How many books or magazines are enough to initiate a criminal case under this article has not been specified, which gives reason to believe that even one copy is enough."

Zeynalov adds: "According to ordinary human logic, if there are some state structures that are responsible for recognising a religious text as 'extremist' and for issuing 'relevant permission' for the production and distribution of religious literature, then this means the presence of 'religious censorship', even if the office of this organisation does not have a sign with that name."

Forum 18 asked Chingiz Asgarov, the government agent to the ECtHR who made this claim to the Council of Europe, in writing in the middle of the working day in Baku of 17 July why he is claiming this given that the censorship system remains unchanged. Forum 18 reminded him of Article 22 of the Religion Law, which sets out this state censorship. Forum 18 received no response by the end of the working day in Baku of 18 July.

Another religious literature censorship case is pending at the ECtHR. In February 2018, the State Committee for Work with Religious Organisations on theological grounds banned the publication and distribution (https://www.forum18.org/archive.php?article_id=2351) of the book "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 (https://www.forum18.org/archive.php?article_id=2490), Miri lodged a case in the ECtHR, Miriyev v. Azerbaijan (Application No. 1717/20). The ECtHR has not yet asked the regime questions about the case. Miri told Forum 18 on 18 July 2023 that he has had no recent news from the Court.

Government "friendly agreement" in one UN appeal, another appeal withdrawn

On 24 March 2022, the United Nations Human Rights Committee discontinued consideration of an appeal lodged by two Jehovah's Witnesses in June 2016 about violations of freedom of religion, it announced on 28 February 2023. The Committee said the decision had been taken because the two "had reached a friendly agreement with the State party".

On 27 July 2022, the Committee discontinued consideration of an appeal lodged by an individual in November 2015 about violations of freedom of religion, it announced on 9 March 2023. The Committee said the decision had been taken at the request of

the applicant.

The appeal appears to be related to the Baptist community in the northern town of Aliabad, which police repeatedly raided and two of whose pastors were jailed. The Baptist church was able to meet for worship with limited State Committee approval from January 2020 (https://www.forum18.org/archive.php?article_id=2557), which might have led the applicant to withdraw the appeal to the UN Human Rights Committee. (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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If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY