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ARMENIA: Will new alternative service law end defiance of Council of Europe?

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

As Armenia prepares the fourth version of its Alternative Service Law, first adopted in 2004, Justice Minister David Harutyunyan has told Forum 18 News Service that the draft now being prepared will "very soon" be sent to parliament. He rejected Council of Europe assessments that the country has violated its commitments to end the imprisonment of conscientious objectors (48 are currently in prison with four more awaiting trial) and to introduce a genuinely civilian alternative service, despite admitting to Forum 18 that alternative service remains under military control. Bojana Urumova, the Council of Europe representative to Armenia, told Forum 18 that "alternative service cannot be said to exist in Armenia". "The government doesn't want to introduce a genuine alternative service," local journalist Vahan Ishkhanian complained to Forum 18. "Only if the Council of Europe is persistent and does not allow itself to be fooled by the deception will the Armenian government be forced to introduce a genuinely civilian service."

Armenia's Justice Minister David Harutyunyan has rejected Council of Europe assessments that the country has violated its commitments to end the imprisonment of conscientious objectors and to introduce a genuinely civilian alternative service. "It is our opinion that we meet our Council of Europe obligations," he told Forum 18 News Service from the capital Yerevan on 21 February. Told that the Council of Europe does not share this view, he requested that Forum 18 should help him by providing copies of the Council of Europe's guidelines on alternative service. Harutyunyan's ministry is drawing up amendments to the Alternative Service Law which, he told Forum 18, will "very soon" be sent to parliament.

The Council of Europe told Forum 18 last September that repeated requests to the Armenian government and its representation at the Council of Europe for copies of planned amendments to the Alternative Service Law had been ignored (see F18News 23 September 2005 http://www.forum18.org/Archive.php?article_id=657).

The Justice Minister's comments come as the number of Jehovah's Witness and Molokan conscientious objector prisoners nears 50 (see F18News 22 February 2006 http://www.forum18.org/Archive.php?article_id=732). Asked when these prisoners will be freed, Harutyunyan insisted this would be soon, but only "if they are prepared to serve under the conditions of the Alternative Service Law".

Alternative service, which the authorities were obliged to have introduced by January 2004, the third anniversary of Armenia's accession to the Council of Europe, eventually became available in the wake of parliament's highly reluctant adoption of an Alternative Service Law later in 2004. The Law - which came into force on 1 July 2004, and was amended by parliament on 22 November 2004 and again on 24 December 2004 - provides for "alternative military service" of 36 months and "alternative labour service" of 42 months, both under the ultimate oversight of the Defence Ministry, thus failing to meet Armenia's Council of Europe commitments.

An official of the Yerevan Mission of the Organisation for Security and Co-operation in Europe (OSCE) in September 2005 told Forum 18 that "we think the Alternative Service Law [which came into force on 1 July 2004] was not drafted and implemented in good faith. The OSCE was involved in the drafting process but the Armenian authorities disregarded our views." (see F18News 23 September 2005 http://www.forum18.org/Archive.php?article_id=657).

Armenia also promised the Council of Europe that it would free all imprisoned conscientious objectors by January 2004, but also broke this promise (see F18News 19 October 2004 http://www.forum18.org/Archive.php?article_id=434).

Unlike other officials, who try to pretend the alternative labour service is civilian, Justice Minister David Harutyunyan admitted that it is currently under military control, declaring: "This is the practice, though not the law." But he refused to accept that such military control is the main reason that the Jehovah's Witnesses reject it. "To my mind there is no problem over who controls the alternative service, as long as the service itself is without weapons."

Despite defending the current system, Harutyunyan insisted the government will eliminate "some contradictions" (which he did not

specify) in its current preparation of amendments to the alternative service law.

Armenia's Deputy Prosecutor-General Kevork Danielyan agreed with Harutyunyan that the current Alternative Service Law has "inadequacies" and said his office is working on the current proposed amendments to the Alternative Service Law at the request of Prime Minister Andranik Markaryan. "We will give our views to the government in the next few days," Danielyan told Forum 18 from Yerevan on 21 February. He said proposed amendments to the Alternative Service Law, as well as to the Criminal Code and the Criminal Procedure Code, would be sent to the Council of Europe's Venice Commission for its expert assessment of whether they meet human rights standards.

However, Danielyan vehemently denied that the current law violates Council of Europe commitments, claiming that the organisation had given its approval to the alternative service law in writing before it was adopted.

Tigran Samvelian, the official responsible for human rights at the Foreign Ministry, declined to answer Forum 18's questions over the telephone on 21 February about Armenia's failure to comply with its Council of Europe commitments, but promised to respond in writing as to what steps Armenia is taking to free the prisoners, remove criminal penalties punishing those choosing not to serve under military control and introduce a genuine civilian service. No response had arrived by lunchtime on 23 February. Viktor Sogomonyan of the Presidential Press Service refused to speak to Forum 18 on 21 February about what actions President Robert Kocharyan would take to bring Armenia into line with its commitments.

"The Council of Europe has already called upon the Armenian authorities to reform the law on alternative service, and has stated that - under the present circumstances - alternative service cannot be said to exist in Armenia," Bojana Urumova, the Council of Europe representative to Armenia, told Forum 18 from Yerevan last November, pointing to the 6th progress report of the Ago Monitoring Group of 21 September 2005.

Her views were echoed by Krzysztof Zyman, who is responsible for the South Caucasus at the Directorate General of Human Rights at the Council of Europe. "The lack of a clearly civilian alternative service is a clear non-fulfilment of Armenia's commitments on accession to the Council of Europe," he told Forum 18 from Strasbourg on 21 February. "There is no doubt that this will continue to be monitored by the Council of Europe's Parliamentary Assembly." He said he knew nothing of any current plans to amend the law, saying he had heard "no news" of any developments from the Armenian authorities.

Some commentators are highly sceptical over the government's intentions. Vahan Ishkhanian, a journalist with the internet news agency Armenia Now who has long followed the fate of the imprisoned conscientious objectors, believes the government is merely pretending to the Council of Europe that it is respecting its alternative service commitments. "The Alternative Service Law was passed only under Council of Europe pressure," he told Forum 18 from Yerevan on 21 February. He said that afterwards the alternative service being offered was "quietly" brought under military control. "The government doesn't want to introduce a genuine alternative service. Only if the Council of Europe is persistent and does not allow itself to be fooled by the deception will the Armenian government be forced to introduce a genuinely civilian service."

Sceptics point to the way the Armenian authorities recently amended the Criminal Code to punish those who evade the alternative military service on a par with those doing full military service. The amendment to Article 327 - which punishes evading military service, training exercises and, from now on, alternative service - also increases the penalty for evading military service by removing the possibility of a fine and increasing the maximum penalty to three years' imprisonment. The amendment was approved by parliament on 16 December 2005, was signed by President Kocharyan on 16 January and came into force on 26 January.

In his justification for the Criminal Code amendment, Kocharyan argued that the failure to punish those evading alternative service on a par with those evading military service violated principles of equality.

Deputy Prosecutor-General Danielyan insisted to Forum 18 that like all Armenia's laws, this amendment does not have retroactive force.

Of the 24 conscientious objectors who accepted alternative service in 2004 in the belief that it was civilian, 22 Jehovah's Witnesses and one Molokan (a member of a Russian Protestant-style Christian community) abandoned the service and gave themselves in to the authorities. The 24th, a non-religious objector, is believed to have agreed to perform military service. The Molokan and 13 of the Jehovah's Witnesses have already been sentenced, eight have been charged and are awaiting trial and one, Hovhannes Aslanian, was killed in a car crash on the way to his trial in Vanadzor late last year (see F18News 22 February 2006 http://www.forum18.org/Archive.php?article_id=732).

"Alternative service is for us now dead," one Jehovah's Witness told Forum 18. "Our young men tried it in good faith, but their good faith was not matched by the authorities."

A printer-friendly map of Armenia is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=armeni>

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