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AZERBAIJAN: Criminal trial resumes for Jehovah's Witness

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

Mushfiq Mammedov, a 23-year-old Jehovah's Witness who wants to be allowed to do alternative service in line with Azerbaijan's constitution and international obligations rather than compulsory military service, faces up to two years in prison if convicted. His trial at Baku's Sabail District Court, which began on 30 June, resumes on 12 July. "We don't know how the hearing will go – nor how long the case will last," his mother Sevil Najafova told Forum 18 News Service. "Azerbaijan undertook the obligation to the Council of Europe to adopt a law on alternative service, and not granting alternative service is a clear violation of this commitment," Krzysztof Zyman of the Council of Europe told Forum 18. But Adil Gadjiev of the Human Rights Ombudsperson's Office in Baku insists Azerbaijan is doing nothing wrong. "Signing such commitments doesn't mean we have to accept these rights without a corresponding law."

The criminal trial of 23-year-old Jehovah's Witness, Mushfiq Mammedov, for refusing military service on grounds of religious conscience resumes in Baku on 12 July. "We don't know how the hearing will go – nor how long the case will last," his mother Sevil Najafova told Forum 18 News Service from the Azerbaijani capital on 7 July. "Mushfiq is ready to do alternative service in line with his religious convictions – indeed, he wrote to the military commissariat to tell them he wants to do so."

Article 76 part 2 of Azerbaijan's Constitution states: "If beliefs of citizens come into conflict with service in the army then in some cases envisaged by legislation alternative service instead of regular army service is permitted." However, in defiance of its commitments to the Council of Europe, Azerbaijan does not have a law allowing exemption from military service on grounds of conscience.

Adil Gadjiev, who works on alternative service cases at the Human Rights Ombudsperson's office, insisted that without a law on alternative service this constitutional right cannot apply. "This doesn't mean we're against alternative service," he told Forum 18 from Baku on 7 July. "But there's an undeclared war going on with Armenia and millions of refugees from that conflict. Signing such commitments doesn't mean we have to accept these rights without a corresponding law." (Most estimates put the number of ethnic Azerbaijani refugees from Armenia itself and parts of Azerbaijan under the control of ethnic Armenians at 700,000.)

"Azerbaijan undertook the obligation to the Council of Europe to adopt a law on alternative service, and not granting alternative service is a clear violation of this commitment," Krzysztof Zyman, an official of the Council of Europe's Directorate General of Human Rights who has been handling this issue, told Forum 18 from Strasbourg on 7 July.

However, under international pressure, a law is belatedly being prepared. "The Council of Europe has been informed that a Law on Alternative Service is being prepared in Azerbaijan," he told Forum 18. "We are looking forward to having the chance to study the text of the proposed Law in the near future to ensure that all European standards on alternative service are met."

Urging the authorities to implement promptly Azerbaijan's obligation to establish alternative service and to end prosecutions based on individuals' religious beliefs is Eldar Zeynalov, the director of the Baku-based Human Rights Centre of Azerbaijan. He has taken up Mammedov's case, stressing to Forum 18 in May that his beliefs "coincide with obligations which Azerbaijan has undertaken to the Council of Europe and in its Constitution".

Mammedov was arrested on 28 April, nine months after telling Sabail District Military Commissariat in Baku that he was unable to perform compulsory military service on grounds of his religious conviction. He demanded instead to be allowed to perform alternative service guaranteed by Article 76 part 2 of the Constitution, which states: "If beliefs of citizens come into conflict with service in the army then in some cases envisaged by legislation alternative service instead of regular army service is permitted." This was refused.

On the day of his arrest he was also formally charged under Article 321.1 of the Criminal Code, which punishes evasion of military service with a sentence of up to two years' imprisonment (see F18News 12 May 2006 http://www.forum18.org/Archive.php?article_id=779).

Najafova said her son was held in Baku's Bayil Investigation Prison, but was freed by a court decision on 26 May and placed instead

under house arrest as he awaited trial. The trial began at Sabail District Court after several postponements with a preliminary hearing on 30 June, which was attended by Najafova. "The hearing was conducted correctly and honourably," she told Forum 18. She said witnesses from the Military Commissariat told the court they had not intended to follow through on their threats to have her son imprisoned, but had merely intended to intimidate him into signing up for military service.

Gadjiev told Forum 18 that the Ombudsperson's Office had issued an "official appeal" to the court on Mammedov's behalf, urging a "just consideration of the case in line with all our laws". He declined to explain what that meant. "Our law on the Ombudsperson's Office says we cannot interfere in court decisions," Gadjiev told Forum 18. "This is already more than we could do." He also claimed that officials of his office had met Mammedov since his release from Bayil Prison and he had agreed to serve in the army.

However, Mammedov's family reject this. They told Forum 18 that such pressure was put on him while in prison that he signed a paper that he would serve in the army. "He was in shock and signed. But he wants to serve his country by doing alternative service," they insisted. "We are under such pressure."

Another Jehovah's Witness conscientious objector, Mahir Bagirov, faced criminal prosecution for refusing military service (see F18News 10 February 2005 http://www.forum18.org/Archive.php?article_id=507). He lost all cases in court, and left Azerbaijan in 2005 to avoid further legal moves against him.

The authorities have long regarded the Jehovah's Witnesses with suspicion. Press attacks remain frequent and in 2005 a number of their meetings were raided by police, while individual Jehovah's Witnesses were questioned, detained and threatened. A number of Protestant communities faced similar police raids (see F18News 16 November 2005 http://www.forum18.org/Archive.php?article_id=689).

Although far fewer police raids on Protestants and Jehovah's Witnesses have been reported this year, in late April police raided a Protestant house church in Baku.

Azerbaijan already has tight restrictions on religious activity which violate the country's international human rights obligations. However Rafik Aliyev, until recently the head of the State Committee for Work with Religious Organisations, was determined to tighten government controls still further. With Aliyev's removal by President Ilham Aliyev (no relation) at the end of June, religious minorities have told Forum 18 that they hope the situation will become easier for them.

An official of the State Committee, who would not give his name, told Forum 18 on 7 July that the Deputy Chairman, Elchin Askerov, is the committee's temporary acting head. The official said it is not yet known who will take over as head, nor when the appointment will be made. He said he did not know why Rafik Aliyev had been removed from the post. (END)

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

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/Archive.php?article_id=92

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

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