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AZERBAIJAN: Jehovah's Witness conscientious objector sentenced

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

Mushfiq Mammedov, a Jehovah's Witness conscientious objector has been given a six month suspended jail sentence and intends to appeal against this, Forum 18 News Service has learnt. He was sentenced for refusing compulsory military service – even though the country's Constitution guarantees the right to alternative service, and not allowing this breaches its Council of Europe commitments. "My son has done nothing wrong – he's not guilty," his mother Sevil Najafova told Forum 18 "He told the Military Commissariat he's prepared to do alternative unarmed service in line with his religious beliefs." A spokesperson for the State Committee for Work with Religious Organisations, defended the sentence. "Our law says every young man must join the army, so this sentence is correct," he told Forum 18. The OSCE has noted that "a constitutional right would be meaningless if the government recognised a right to alternative service only after it had initiated the promulgation of a law."

The mother of Jehovah's Witness conscientious objector Mushfiq Mammedov has protested against the six-month suspended sentence handed down on him by a court in Baku on 21 July for refusing compulsory military service. "My son has done nothing wrong – he's not guilty," Sevil Najafova told Forum 18 from the Azerbaijani capital on 26 July. "He told the Military Commissariat he's prepared to do alternative unarmed service in line with his religious beliefs."

But Agil Hajiev, the spokesperson for the State Committee for Work with Religious Organisations, defended the sentence. "Our law says every young man must join the army, so this sentence is correct," he told Forum 18 from Baku the same day.

Najafova insisted that Mammedov will lodge an appeal against the sentence within the specified twenty-day period after receiving the judgment in writing. "We will fight on because it's an unjust punishment," she told Forum 18. "We are preparing the appeal now." Before his sentence, he had been imprisoned since his arrest on 28 April (see F18News 12 May 2006 http://www.forum18.org/Archive.php?article_id=779).

Najafova said her son can work, live at home and also attend religious meetings during his sentence. "No-one has said what he can and can't do." However, she said she fears that if he fails in his appeal, officials could find a reason to accuse him of violating the terms of his suspended sentence and send him to prison. "We're very afraid they could do this at any moment." She said her son's mood was "not good" in the wake of the sentence. "He hoped for a more just verdict."

Mammedov's prosecution and the failure to introduce alternative non-military service violate Azerbaijan's specific commitment to the Council of Europe. When Azerbaijan joined in 2001, it pledged to introduce alternative service by January 2003, but did not do so. Hajiev of the State Committee for Work with Religious Organisations insisted to Forum 18 that the long-promised alternative service law will be adopted "in the next year" It will then, he claimed, be possible for young men to opt for alternative service. "But this law does not yet exist."

Azerbaijan is violating its Council of Europe commitments in not adopting an alternative service law (see F18News 12 May 2006 http://www.forum18.org/Archive.php?article_id=779). It joined the Council of Europe in 2001, but the country's Human Rights Ombudsman Office has told Forum 18 that "signing such commitments doesn't mean we have to accept these rights without a corresponding law" (see F18News 7 July 2006 http://www.forum18.org/Archive.php?article_id=809).

The Office in Baku of the Organisation for Security and Co-operation in Europe (OSCE) pointed out that Article 76 of Azerbaijan's Constitution recognises that those who cannot perform military service on grounds of conscience are to be offered alternative service. "Such a constitutional right would be meaningless if the government recognised a right to alternative service only after it had initiated the promulgation of a law thereof," a spokesperson for the OSCE Office told Forum 18 from Baku on 26 July.

The OSCE spokesperson added that in Mammedov's case, the prosecution "would follow the spirit of the Constitution, were it not to oppose a possible appeal against the sentence".

The spokesperson said the Azerbaijani government would be "well advised" to establish a system of alternative service and refrain

from any prosecution against those "who wish to make use of their constitutional right not to serve in the army on grounds of religious belief or other moral or ethical dictates of his or her conscience".

Mammedov, who is 23, 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 the Constitution. He was held for nearly a month in Baku's Bayil investigative prison.

Mammedov's trial began at Baku's Sabail District Court on 30 June under Article 321.1 of the Criminal Code, which punishes evasion of military service with a sentence of up to two years' imprisonment.

The last hearing in the case took place on 20 July. Jehovah's Witness sources say the judge behaved correctly and praised Mammedov in court for being "very educated and cultivated". Although the prosecutor was demanding a suspended sentence of one year, on 21 July the judge handed down the suspended six-month sentence.

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.

Despite the sentences imposed on Mammedov and Bagirov, the authorities appear to be trying to avoid legal cases which will set a precedent that conscientious objectors will not be punished (thus encouraging other local young men to demand alternative service in line with the Constitution) or, by contrast, will draw the attention of the international community to the country's continuing violation of its Council of Europe commitments.

Najafova told Forum 18 that she knows of at least half a dozen other cases of Jehovah's Witnesses who have written to the military commissariat of their inability to perform military service because of their religious beliefs and their willingness to perform non-military alternative service. "So far they've not been touched."

In one current case, Jehovah's Witness Farid Mammedov wrote to the human rights ombudsperson Elmira Suleymanova to complain that the military commissariat of Baku's Nasimi District had refused to accept his request to perform alternative service or to defer the call-up. After consulting the military commissariat, she responded to him on 3 July to say that "it is clear that you have no legal basis for the provision of deferment to call-up to urgent military service". She failed to tell him why he could not perform alternative service in line with the Constitution as he had requested.

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. On 24 July, President Ilham Aliyev named his former nationalities adviser Hidayat Orujev to head the State Committee for Work with Religious Organisations. Orujev replaces Rafik Aliyev (not a relation of the President), who was sacked at the end of June 2006. (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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