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AZERBAIJAN: Accountability for raiders through Baku and Strasbourg courts?

By Felix Corley, Forum 18 News Service <<http://www.forum18.org>>

Baku-based Muslim Zeka Miragayev - whose home was raided by police and secret police without a warrant in May 2012 during which Korans and other religious books were seized - is seeking through a Baku court to have the raids declared illegal. Local police chief Lt-Colonel Hakani Mammadov denied to Forum 18 News Service that any literature had been taken in the raid. The secret police denied to the court that it had been involved at all. The OSCE Office in Baku told Forum 18 it will monitor the case when it resumes in court on 22 January. Gyanja-based Rashad Niftaliyev - who has been fined three times in as many years after police raids on unregistered meetings for worship - is the most recent Jehovah's Witness from Azerbaijan to lodge a case to the European Court of Human Rights in Strasbourg over such raids. Four other groups of Jehovah's Witness victims have lodged raid-related cases to the Strasbourg court since 2007, though no verdicts have yet been issued.

Some of Azerbaijan's many victims of police and National Security Ministry (NSM) secret police raids on meetings for worship and private homes are seeking accountability for those involved both in local courts and through the European Court of Human Rights (ECtHR) in Strasbourg, Forum 18 News Service notes.

A Baku-based Muslim, Zeka Miragayev, has pledged to continue his battle through the court to have a May 2012 police and secret police raid on his home in the Azerbaijani capital declared unlawful, he told Forum 18. The case resumes in a Baku court on 22 January. The raid led to the detention of many of his friends and the confiscation of copies of the Koran and books by Muslim authors, including the late Turkish theologian Said Nursi, which have still not been returned.

The Baku Office of the Organisation for Security and Co-operation in Europe (OSCE) is planning to attend the next court hearing in Miragayev's case at Baku's Administrative Economic Court No. 2. "We will monitor the upcoming hearing due to take place on 22 January, as part of the Trial Monitoring Programme," the OSCE Office told Forum 18 from Baku on 16 January.

As Miragayev is seeking accountability for the police and secret police over their raid on his home through a Baku court, five of the many Jehovah's Witness cases lodged from Azerbaijan with the ECtHR in Strasbourg have been submitted by separate groups of victims of such police or secret police raids on meetings for worship or private homes. The most recent Jehovah's Witness case relating to raids was lodged at the ECtHR in March 2012. The lead victim in the case has been fined three times in just over two years for participating in meetings for worship without state registration.

An official of the State Committee for Work with Religious Organisations told Forum 18 on 16 January that its spokesperson Orhan Ali was out of the office and that only he could give official comment.

Raids on religious communities in Azerbaijan are frequent and religious literature is often seized in such raids. In another recent case, two Baptist-owned homes were raided by police in Aliabad in north-western Zakatala [Zaqatala] Region in November 2012. Religious literature was confiscated from them (see F18News 9 November 2012 <http://www.forum18.org/Archive.php?article_id=1765>). Hamid Shabanov, one of those raided, told Forum 18 from Aliabad on 16 January 2013 that police have still not returned the confiscated books.

Punishment for unapproved religious activity

Meanwhile, the only Muslim community in the town of Hirdalan near Baku has had its legal status stripped from it. This is the second case known to Forum 18 that the State Committee has succeeded in court in having a religious community's registration with the Justice Ministry stripped from it. The first, Baku's Greater Grace Protestant Church, failed in its final Supreme Court challenge on 9 January (see forthcoming F18News article).

Stripping a religious community of its legal status leaves it - like many other religious communities arbitrarily denied legal status - vulnerable to such police and secret police raids. Under Azerbaijan's harsh Religion Law, all religious activity without state permission is illegal and subject to punishment. Administrative fines for unregistered religious activity were massively increased in

December 2010 (see F18News Azerbaijan religious freedom survey <http://www.forum18.org/Archive.php?article_id=1690>).

Suit

On 20 September 2012, Baku's Administrative Economic Court No. 2 finally accepted the suit against the police and NSM secret police lodged by Baku Muslim Miragayev. The case was assigned to Judge Farmayil Zeynalli. Both the police and the secret police denied Miragayev's claims.

Miragayev had been trying to lodge a court challenge since June 2012, but had faced obstruction in the courts. Baku's Administrative Economic Court No. 1 and Narimanov District Court both refused to accept the case. Miragayev had also written complaints to Azerbaijani President Ilham Aliev and other state agencies without any response (see F18News 23 October 2012 <http://www.forum18.org/Archive.php?article_id=1757>).

Miragayev's suit was against those who raided his private home in Baku's Narimanov District on 31 May 2012. Those present were taken to the police station for questioning. His home was searched without a warrant and left in a state of disarray. Police confiscated 30 copies of the Koran, as well as 24 other books, including some by Said Nursi. They also took 34 Manats (265 Norwegian Kroner, 35 Euros or 43 US Dollars) and 500 US Dollars (392 Manats, 3,050 Norwegian Kroner or 410 Euros) and a computer. Miragayev, who was away at the time, was particularly upset that the officers failed to take off their shoes in his home (see F18News 11 July 2012 <http://www.forum18.org/Archive.php?article_id=1719>).

Police and secret police denials

In a 29 October 2012 letter to the court seen by Forum 18, Colonel Natig Abuzarli of Narimanov District NSM secret police denied absolutely that his officers had anything to do with the raid.

In a 1 November 2012 letter to the court also seen by Forum 18, Narimanov District's 18th police station chief Lt-Colonel Hakani Mammadov insisted that Miragayev's flat had been raided because "a large number" of people were in the flat "behaving suspiciously" and thus disturbing the neighbours. Mammadov did not explain in what way the behaviour was suspicious.

Lt-Colonel Mammadov denied absolutely that police officers had taken any items from the flat. "The photos submitted by Zeka Miragayev were taken some days afterwards when he came to the flat," Mammadov insisted to the judge. "The property of the plaintiff was not damaged." He called on the judge to reject Miragayev's suit.

Miragayev dismissed the police and secret police claims. He told Forum 18 the police chief had given "false information". "My friends were taken to the Police Station by force," he told Forum 18. "Mikayil Gurbanov was the last to leave the flat and closed the door. The police were engaged in taking my friends to the police station, then NSM officers took the books and other items to the NSM."

Asked by Forum 18 on 16 January why he had stated that no items had been taken from Miragayev's flat during the raid, Lt-Colonel Mammadov responded: "Because it's a fact." Asked who had taken literature and other items from the flat, he repeated: "Nothing was taken." Then he added: "Don't ring here again," before putting the phone down. Forum 18 was thus unable to find out what "suspicious" activity the police believed had been taking place and who had decided to launch the raid.

Forum 18 was unable to reach anyone at the NSM secret police prepared to discuss the case.

Claims in court

At the first hearing on 21 December 2012, police officer Kalandar Jabbarov claimed that the officers who arrived at Miragayev's flat showed their police identity cards, and stood in the doorway only without entering the flat. Responding to a question from Judge Zeynalli as to why the flat had been raided, the officer claimed that neighbours had complained of being disturbed. Miragayev and his friends denied all three of Jabbarov's claims.

Officer Jabbarov denied to Miragayev's then lawyer Rasim Nuriyev in court that the plain clothed men accompanying the police had been NSM secret police officers. Jabbarov also denied that the police had taken any books from the flat.

The second hearing was due on 25 December 2012, but neither the police nor the NSM secret police sent representatives. The hearing was then cancelled. "Police and NSM officers by this showed disrespect to the court and it was a serious breach of law," Miragayev complained to Forum 18. "They proved the crime they committed by being absent from the court."

The next hearing is due on 22 January, Miragayev's friends told Forum 18. They said it is unclear whether this will be the final hearing in the case or not. "It all lies in the hands of the judge." However, they are not optimistic that Miragayev will win his case.

Secret police pressure

Miragayev also told Forum 18 that an NSM officer named Rashad (last name unknown) met him on 17 December 2012. The officer called on him to withdraw his suit and offered to pay him if his religious books are not found.

Miragayev insisted to Forum 18 that the suit must go ahead. "I demand my rights, because an NSM officer abused the author of Risale-i Nur [Said Nursi]."

In early January 2013, Miragayev approached foreign representatives seeking possible asylum abroad. He expressed concern that further state action could be taken against him to punish him for exercising his right to freedom of religion or belief. "I do not know what my future life will be like, because who commits such injustice with me, may do any other acts also," he declared. "They even may also arrest me, though I have no fault, and also kill me."

Justice through Strasbourg?

Many of Azerbaijan's Jehovah's Witnesses who have been victims of police and secret police raids have lodged cases to the European Court of Human Rights (ECtHR) in Strasbourg. Jehovah's Witnesses told Forum 18. On 1 March 2012, Gyanja [Gäncä]-based Rashad Niftaliyev lodged such a case on his and his fellow Jehovah's Witnesses' behalf: Niftaliyev and Others v. Azerbaijan (Application No. 561/12).

Niftaliyev was among a group of Jehovah's Witnesses punished in a late-night hearing in December 2010 after a police raid. He was fined 150 Manats (1,035 Norwegian Kroner, 133 Euros or 191 US Dollars). In June 2011 he was again fined 1,500 Manats (10,350 Norwegian Kroner, 1,330 Euros or 1,910 US Dollars), following a raid on a Jehovah's Witness meeting in Gyanja because they do not have the compulsory state registration. He was among six local Jehovah's Witnesses fined in November 2011 after another police raid on a religious meeting. He was fined 2,000 Manats (15,245 Norwegian Kroner, 1,960 Euros or 2,545 US Dollars). In July 2012 Niftaliyev and another of those fined in November 2011 were taken to court after being unable to pay the massive fines. Although the other Jehovah's Witness was punished with a three-day prison term, Niftaliyev was given a formal warning (see F18News 10 August 2012 <http://www.forum18.org/Archive.php?article_id=1730>).

Other Jehovah's Witness cases from Azerbaijan at the ECtHR which relate or partially relate to raids on their religious meetings or private homes are: Religious Community of Jehovah's Witnesses & Others v. Azerbaijan (No. 52682/07), filed on 16 November 2007; Mursalov and Others v. Azerbaijan (No. 4668/10), filed on 12 January 2010; Mukhtarov and Others v. Azerbaijan (No. 6013/10), filed on 18 January 2010; and Valiyev and Others v. Azerbaijan (No. 42651/11), filed on 11 July 2011.

The ECtHR said all five of these Jehovah's Witness cases are still pending before the Court. "So far, no decision has been taken as to the admissibility of these cases," a spokesperson for the Court told Forum 18 from Strasbourg on 16 January 2013. (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1690>.

More coverage of freedom of thought, conscience and belief in Azerbaijan is at <<http://www.forum18.org/Archive.php?query=&religion=all&country=23>>.

A compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments can be found at <http://www.forum18.org/Archive.php?article_id=1351>.

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>.

A printer-friendly map of Azerbaijan is available at <<http://education.nationalgeographic.com/education/mapping/outline-map/?map=Azerbaijan>>.

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