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AZERBAIJAN: Continued defiance of UN and Council of Europe

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

Azerbaijan marked the tenth anniversary of its accession to the Council of Europe by rejecting a prisoner of conscience's appeal against his conviction. On 25 January Jehovah's Witness conscientious objector Farid Mammedov's appeal against his nine month jail term was rejected by the Supreme Court. He is now preparing a case at the European Court of Human Rights (ECtHR) in Strasbourg, Jehovah's Witnesses told Forum 18 News Service. Continued conviction of conscientious objectors breaks Azerbaijan's international - including Council of Europe - human rights obligations. Less than a month beforehand, the Supreme Court also rejected the final appeal against a fine imposed for conscientious objection from fellow Jehovah's Witness Mushfiq Mammedov (no relation of Farid). He and a former Jehovah's Witness prisoner of conscience, conscientious objector Samir Huseynov, lodged a joint application (No. 14604/08) on 7 March 2008 to the European Court of Human Rights. "This application is pending before the Court and no date has yet been fixed for its examination," a Court spokesperson told Forum 18.

On 25 January, the same day Azerbaijan marked the tenth anniversary of its accession to the Council of Europe, the Supreme Court in the capital Baku rejected the final appeal of imprisoned Jehovah's Witness conscientious objector Farid Mammedov against his nine-month prison sentence, Jehovah's Witnesses told Forum 18 News Service. Azerbaijan committed itself on accession to the Council of Europe to ending prosecution of conscientious objectors and to introduce an alternative civilian service, but failed to do so. Mammedov is preparing a case at the European Court of Human Rights (ECtHR) in Strasbourg. Two other conscientious objectors sentenced earlier are awaiting decisions by the ECtHR as to whether their cases against Azerbaijan can go forward.

The appeal comes as Azerbaijan has imposed a fine for religious activity without state permission - without informing the victim she was being tried for this "offence". This is the second such case known to Forum 18 in 2011 (see F18News 21 February 2011 <http://www.forum18.org/Archive.php?article_id=1543>).

Final domestic appeal fails

Azerbaijan's Supreme Court rejected the final domestic appeal by imprisoned conscientious objector Farid Mammedov on 25 January, Eldar Zeynalov, head of the Human Rights Centre of Azerbaijan, told Forum 18 from Baku.

Mammedov was found guilty on 16 July 2010 at Baku's Nasimi District Court under Criminal Code Article 321.1 and sentenced to nine months' imprisonment. This Article states that: "Evasion without lawful grounds of call-up to military service or of mobilisation, with the purpose of evading serving in the military, is punishable by imprisonment for up to two years [in peacetime]".

The verdict decreed though that the sentence would not be enacted immediately. However, on 8 September 2010 Mammedov was arrested in the courtroom as his first appeal was rejected by Baku Appeal Court and sent to a labour camp to serve the sentence (see F18News 15 September 2010 <http://www.forum18.org/Archive.php?article_id=1488>).

Another Supreme Court appeal fails

Less than a month before it rejected Farid Mammedov's appeal, the Supreme Court in Baku on 29 December 2010 also rejected the final appeal against a conviction under Article 321.1 from fellow Jehovah's Witness Mushfiq Mammedov (no relation of Farid).

Mushfiq Mammedov was sentenced under the same Criminal Code Article in July 2006, when he was given a suspended six month prison term (see F18News 26 July 2006 <http://www.forum18.org/Archive.php?article_id=818>).

He was tried on the same charges again in October 2009, by which time he was aged 26. At the end of his second trial, taking account of the two months he had spent in pre-trial detention, the judge handed down a fine of 250 Manats (1,737 Norwegian Kroner, 206 Euros or 312 US Dollars). In December 2009 Baku Appeal Court upheld the conviction. He then appealed to the Supreme Court. He paid the fine "under protest", Jehovah's Witnesses told Forum 18 earlier (see F18News 15 September 2010 <http://www.forum18.org/Archive.php?article_id=1488>).

Defiance of international human rights obligations

Ahead of its accession in January 2001 to the Council of Europe, Azerbaijan promised "to adopt, within two years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors presently serving prison terms or serving in disciplinary battalions, allowing them instead to choose (when the law on alternative service has come into force) to perform non-armed military service or alternative civilian service".

In August 2009 Concluding Observations on Azerbaijan's report to the United Nations (UN) Human Rights Committee (CCPR/C/AZE/CO/3), the Committee stated that it: "remains concerned that no legal provision regulates the status of conscientious objectors to military service (art. 18). The Committee recommends that a law exempting conscientious objectors from compulsory military service and providing for alternative civilian service of equivalent length be adopted at an early date in compliance with article 18 of the Covenant and the Committee's general comment No. 22 (1993) on article 18 (Freedom of thought, conscience or religion)".

However, Azerbaijan has still not halted its prosecution of conscientious objectors, or introduced a civilian alternative service for those who cannot perform compulsory service in the armed forces on conscientious grounds.

"I have not seen any text"

Talatum Guliev of the Milli Mejlis (parliament) says that no draft Alternative Service Law is on the legislative plan for the first half of 2011. "It was there in earlier years, but has been taken off," he told Forum 18 on 21 February. "Maybe it will be there for the autumn session, but who knows?"

Ilgar Gurbanov, deputy head of the Department of Legislation and Legal Expertise at the powerful Presidential Administration, told Forum 18 from Baku the same day that he had "no information" about any draft Law. "I have not seen any text."

An Alternative Service Law has long been promised, but the only action the state has taken is to continue prosecuting people who conscientiously object to compulsory military service (see eg. F18News 6 October 2004 <http://www.forum18.org/Archive.php?article_id=425>). In September 2010 Guliev had told Forum 18 a law had been in the then plan, even though he added that "nothing real is happening" (see F18News 15 September 2010 <http://www.forum18.org/Archive.php?article_id=1488>).

Constitutional guarantee without value?

Farid Mammedov became a Jehovah's Witness in July 2004. He was in regular correspondence since 2006 with Baku's Nasimi District Military Conscription Office and the Defence Ministry insisting that he should be allowed to conduct an alternative civilian service in line with his religious beliefs. He pointed out the guarantee of an alternative service under Article 76 Part 2 of Azerbaijan's Constitution and Azerbaijan's commitments to introduce such a civilian alternative service on joining the Council of Europe. Despite presenting such arguments, the Prosecutor's Office launched a criminal case against him.

Article 76 Part 2 of the Constitution states: "If the beliefs of citizens come into conflict with service in the military then in some cases envisaged by legislation alternative service instead of regular military service is permitted".

Human rights defender Zeynalov points out that in December 2002, Baku's Khatai District Prosecutor's Office closed a similar criminal case against another Jehovah's Witness conscientious objector, Leonid Moroz. However, several subsequent conscientious objectors were imprisoned, given suspended sentences or fined.

"Reasonable" conditions in prison

Following his jail sentence, Farid Mammedov has been held in Prison No. 14 in the village of Gizilbash near Baku. It was there that he had his 23rd birthday in December 2010.

Conditions for him in prison are "reasonable", Jehovah's Witnesses told Forum 18. They said he is able to have some religious literature. "He has his Bible and two other books, which he can read anytime. He can also receive magazines and an official reads the magazines before giving them to Farid."

Some former prisoners have complained to Forum 18 that they were not allowed to have religious books, with Muslims being denied access to the Koran and Christians being denied access to the Bible.

Waiting for Strasbourg

Mushfiq Mammedov and another sentenced Jehovah's Witness Samir Huseynov (a prisoner of conscience from October 2007 to May 2008) lodged a joint application (No. 14604/08) on 7 March 2008 to the European Court of Human Rights. No admissibility decision yet been taken. "This application is pending before the Court and no date has yet been fixed for its examination," a Court

spokesperson told Forum 18 from Strasbourg on 18 February.

Human rights defender Zeynalov points out that Jehovah's Witness conscientious objectors have won similar cases against a number of European countries at the ECtHR. (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1192>.

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 personal commentary on the European Court of Human Rights and conscientious objection to military service is at <http://www.forum18.org/Archive.php?article_id=1377>).

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://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=azerba>>.

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