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AZERBAIJAN: Victims to challenge "exorbitant" fines to Strasbourg?

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

Jehovah's Witnesses have described as "exorbitant" the administrative fines handed down to three of their members in Gyanja for holding a religious meeting. One was given a fine of nearly 18 months' official minimum wage, while the other two were each fined nearly six months' minimum wage. A fourth was officially warned. They are considering appeals to the European Court of Human Rights in Strasbourg. Forum 18 News Service notes that this is the first time the higher fines for religious activity introduced in December 2010 are known to have been imposed. Two Muslims who read the works of Said Nursi were acquitted of similar charges in August after a police raid on their meeting. Meanwhile, Hidayat Orujev, head of the State Committee for Work with Religious Organisations, has instructed the Muslim Board to amend its statute. He also warned that it is "unacceptable" for mosques to follow religious calendars that they choose and to decide whether to hold only Shia or Sunni prayers and events. The spokesperson for the State Committee denied to Forum 18 that this represents interference in the Muslim community's internal affairs.

Four Jehovah's Witnesses, whose appeals against their administrative conviction for meeting to discuss their faith were rejected in mid-July, are considering taking their cases to the European Court of Human Rights (ECtHR) in Strasbourg, Jehovah's Witnesses told Forum 18 News Service on 24 August. Three of the four were given heavy fines by a court in Azerbaijan's second city Gyanja [Gäncä] and the fourth officially warned. "The exorbitant fines for attending peaceful religious meetings of Jehovah's Witnesses are a serious violation of Azerbaijan's Constitution and the European Convention on Human Rights, of which Azerbaijan is a signatory," Jehovah's Witnesses complained to Forum 18.

Though others have been fined in 2011 for religious activity, these are the first cases known to Forum 18 when the massively-increased penalties for religious activity introduced in December 2010 have been imposed. "The increased fines impose a heavy burden on religious minorities endeavouring to practice their religion, most being unable to pay such fines," Jehovah's Witnesses added.

The four were punished under Code of Administrative Offences Article 299 ("violation of the procedure for creating or running religious organisations"), which punishes a wide range of "offences", including meeting for worship without state permission. In December 2010, sharp increases in fines were introduced for all violations of Article 299, as well as fines for religious activity under Article 300 of the Code (see F18News 7 January 2011 http://www.forum18.org/Archive.php?article_id=1527).

Rabiyat Aslanova, chair of parliament's Human Rights Committee who voted in favour of the increased fines in December 2010, said she was unaware of the punishments handed down to the Jehovah's Witnesses in Gyanja. "But it can't have been because they held prayers in a private home," she insisted to Forum 18 on 25 August. "There must have been something else." She said she was abroad for treatment, but when she returned to Azerbaijan she would be happy to meet the punished Jehovah's Witnesses "if they want".

On 25 August, Saleh Aslanov, spokesperson for the State Committee for Work with Religious Organisations, declined any immediate comment. By the end of the working day in Baku on 25 August, Forum 18 was still waiting for a response to its written questions as to why people are being punished with heavy fines for their religious activity.

By contrast, on 5 August a judge in the central town of Mingechaur rejected a similar administrative case against two Muslims who read the works of the late Turkish Muslim theologian Said Nursi, fellow Nursi readers told Forum 18.

Massive fines

The four Jehovah's Witnesses - Rashad Niftaliyev, Teymur Valiev, Yegana Gahramanova and Rana Sadiqova – were tried on 13 June at Gyanja's Nizami District Court. Judge Gunduz Shirinov found them guilty of violating Article 299.0.2 of the Code of Administrative Offences ("Infringement of the regulations on organising religious meetings or events"). Niftaliyev was fined 1,500 Manats (10,351 Norwegian Kroner, 1,328 Euros or 1,908 US Dollars), while Gahramanova and Sadiqova were each fined 500 Manats (3,453 Norwegian Kroner, 443 Euros or 636 US Dollars). Valiev was given an official warning rather than a fine, partly

because he is a second category disabled person.

The presidentially-decreed official minimum wage has been 85 Manats per month since 1 September 2010. Niftaliyev's fine therefore represents nearly 18 months' minimum wages, while Gahramanova and Sadiqova's fines represent nearly six months' minimum wages each.

This is the second time in six months that Niftaliyev, Valiev and Gahramanova have been convicted under the same Administrative Code Article for their religious activity. They were among a group of Jehovah's Witnesses punished in a late-night hearing on 18 December 2010 after a police raid (see F18News 7 January 2011 http://www.forum18.org/Archive.php?article_id=1527).

In the wake of the 13 June convictions, the four appealed to Gyanja Appeal Court. In a series of hearings on 11 July, Judge Jeyhun Ahmedov rejected Niftaliyev's appeal, Judge Chingiz Mammedov rejected Valiev's and Gahramanova's appeals, and Judge Rashid Maharramli rejected Sadiqova's appeal, the Appeal Court website noted.

The written verdicts record that the Appeal Court decisions are final and cannot be appealed further, Jehovah's Witnesses told Forum 18. This means that as all domestic remedies are exhausted, the four are able to take a case direct to the ECtHR in Strasbourg.

"Only registered communities can meet"

The most recent trouble began for the four Jehovah's Witnesses on the morning of 12 June, the day before the court hearing. About forty people were present when the community's regular weekly meeting at Gahramanova's Gyanja home was raided. After the meeting ended, Firdovsi Kerimov, the local official of the State Committee, entered Gahramanova's home without permission and ordered everyone, including the elderly and infirm, to remain until the police arrived.

At 11.30 am, the police took all those present to the police station for questioning, detaining some for almost ten hours (see F18News 13 June 2011 http://www.forum18.org/Archive.php?article_id=1579).

At the police station and in court, officials explained to the Jehovah's Witnesses that their meetings are illegal because only state-registered religious structures can hold religious meetings under Article 12 of the Religion Law.

The Gyanja community lodged its first application for registration to the State Committee in July 2010, but this was rejected on technical grounds on 2 August 2010. The community resubmitted the application on 8 June 2011, just days before the raid. However, the State Committee has not yet processed this second application.

Lokbatan raids

Police in Lokbatan, a district of the capital Baku, also raided and broke up several Jehovah's Witness meetings in private homes between April and June, Jehovah's Witnesses told Forum 18. On 9 June, police brought charges under Administrative Code Article 299 against one home owner. However, Garadagh District Court returned her case to the police, after finding that her procedural rights had been violated during the investigation. The case had not returned to court as of 24 August, Jehovah's Witnesses told Forum 18.

Acquittal by "good" judge

On 5 August a judge in Mingeaur acquitted two Muslim readers of the works of Said Nursi. The two women were facing charges under Article 299.0.2 of the Code of Administrative Offences. "The judge was good, and wrote that everyone has the right to gather in their home and read books, including the Koran," fellow Nursi readers told Forum 18 on 19 August. "The judge also ordered that the confiscated religious literature be returned." The books were due to be returned once the judgment entered into force.

Trouble began for the two women when local police raided a private home owned by a Nursi reader in Mingeaur on 6 May. A disc with the text of the Koran as well as three booklets by Nursi were among the items confiscated (see F18News 13 May 2011 http://www.forum18.org/Archive.php?article_id=1570).

State Committee interfering in Muslim affairs?

Meanwhile, Hidayat Orujev, the head of the State Committee, has instructed the state-backed Caucasian Muslim Board to amend its statute, as he told its Council of Kazis in Baku on 28 July at a meeting to mark the imminent start of the Muslim holy month of Ramadan. He said that the Board had not amended its statute after changes to the Religion Law in 2009. Although the statute contained no "fundamental contradictions with the Law", he said, it needed "certain revision". He pointed out that the Religion Law amendments clearly subordinated all Muslim communities in Azerbaijan to the Board and the statute did not reflect its new powers.

Orujev also complained that different mosques follow different calendars for Muslim festivals which "confuses people". "During Ramadan some contradictions emerge between Sunnis and Shias about the time when the month starts and when to hold namaz

[prayers] and iftars [meals after sunset to break the Ramadan fast]," local news agencies quoted him as telling the Council of Kazis. He described this as "unacceptable".

Orujev went on to complain that some Shia mosques banned local Sunni Muslims from holding Tarawih night prayers during Ramadan, while some Sunni mosques banned local Shias from holding Shia Ashura commemorations during the month of Muharram. "This is not right. Ramadan is the month of unity and brotherhood. Such occurrences are unacceptable." He said official warnings are given in such cases.

Aslanov, the State Committee spokesperson, rejected suggestions that when Muslim communities choose to mark festivals and what prayers or other religious events they hold is a question for the communities, not for the state. He insisted to Forum 18 that Orujev's calls for changes to the Board's statute and complaints about different calendars and services in mosques did not represent "interference" in the Muslim community's internal affairs.

Salman Musaev, deputy head of the Muslim Board, declined to comment to Forum 18 on 25 August on Orujev's instructions to the Muslim community. He referred all questions to the Board's Press Service. However, spokesperson Rahima Dadasheva was on holiday.

Re-registration was halted

Many religious communities of a variety of faiths – including Muslims outside the framework of the Muslim Board, Protestant Christians and Jehovah's Witnesses – have repeatedly expressed frustration at the State Committee's refusal to register or re-register them. Compulsory re-registration was imposed with the 2009 Religion Law changes, which was supposed to have been completed by the end of that year.

As of 25 August, a total of 543 religious communities are listed on the State Committee website as having registration: 524 Muslim communities, plus 19 communities of other faiths (6 Jewish, 3 Molokan, 2 Baha'i, 2 Georgian Orthodox, 1 Russian Orthodox, 1 New Life Protestant, 1 Lutheran, 1 Albanian Udi Christian, 1 Catholic and 1 Hare Krishna). Only 33 have been registered so far in 2011, all of them in July (see F18News 27 July 2011 http://www.forum18.org/Archive.php?article_id=1598).

For the first time known to Forum 18, Orujev of the State Committee has revealed why no religious communities gained registration or re-registration between December 2010 and July 2011.

In his 28 July address to the Council of Kazis, Orujev admitted that 219 Muslim communities are awaiting registration and confirmed that the process had been halted because it knew that the Religion Law was going to be amended again. He stressed that the latest changes have increased the number of founders a religious community needs from 10 to 50.

As well as increasing the required number of founders, the summer 2011 Religion Law changes introduced new controls on religious education, and increased the controls that the state requires religious headquarter bodies or centres to have over all communities under their jurisdiction. The amendments especially apply this to the state-backed Caucasian Muslim Board, to which all Muslim communities must belong.

The amendments – the 13th time the Religion Law has been amended since it was originally adopted in 1992 – were approved by Parliament on 10 June. They were signed into law by President Ilham Aliyev and published on 4 July (see F18News 6 June 2011 http://www.forum18.org/Archive.php?article_id=1576).

Court victory – but no registration yet

Two religious communities are known to have challenged the re-registration denial in the courts. After more than a year of court hearings, Baku's Cathedral of Praise Protestant Church finally won its case at Baku Appeal Court on 27 July, when Judge Ismail Veliyev ordered the State Committee to register the community (see F18News 27 July 2011 http://www.forum18.org/Archive.php?article_id=1598).

Although the Appeal Court website notes the Church's victory in the case, as of 25 August the Church had still not received the written court decision. "As soon as we have the written decision we can go to the State Committee and ask them to register us," church members told Forum 18 from Baku on 25 August

Baku's Jehovah's Witness community – which has also been seeking legal redress for the denial of re-registration for more than a year – is still challenging the State Committee's rejection through the courts. Its case at Baku Appeal Court is due to continue on 12 September, the Appeal Court website notes.

The Appeal Court case – the second for the community - began under Judge Azad Imanov on 11 July. A second hearing was held on 1 August (see F18News 27 July 2011 http://www.forum18.org/Archive.php?article_id=1598).

Aslanov of the State Committee denies that the re-registration process was slow, even though communities seeking re-registration lodged their applications back in 2009. "It may seem slow to you, but the process is continuing," he insisted to Forum 18. "The deadline of the end of 2009 was for communities to lodge re-registration applications, not for the State Committee to re-register them." Asked about the hundreds of communities which are awaiting registration or re-registration, he responded: "Maybe there was something wrong with their documents." (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 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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