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ARMENIA: Jailings of conscientious objectors resume

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

With two new jailings of conscientious objectors in August – both Jehovah's Witnesses – Armenia has resumed such jailings after a break of a year, bringing prisoner numbers to 32, Forum 18 News Service notes. In addition, 16 young Jehovah's Witnesses so far in 2012 have been given jail terms which have not yet been enacted, five of them in September. And cases of a further 23 are in court or with prosecutors. "The law is the law and we have to enforce it," the General Prosecutor's Office insisted to Forum 18. The Parliamentary Assembly of the Council of Europe and the UN Human Rights Committee have both condemned Armenia's failure to free imprisoned conscientious objectors and introduce a genuinely civilian alternative service. Deputy Justice Minister Ruben Melikyan was unable to say when the proposed new Alternative Service Law will be made public. "The Justice Ministry talks a lot but does nothing," human rights defender Artur Sakunts told Forum 18.

On 6 August – a year to the day since the last jailing of a conscientious objector in Armenia – a court sentenced Maksim Khudoyan to 30 months' imprisonment for refusing compulsory military service. Just weeks later, another Jehovah's Witness conscientious objector Gevorg Sahakyan was imprisoned for 24 months. Although courts have continued to hand down prison terms, these are the first to have been applied. Thirteen other conscientious objectors have been sentenced to prison since the beginning of 2012 and are waiting to learn their fate, Jehovah's Witnesses told Forum 18 News Service from the Armenian capital Yerevan on 20 September.

Of all the former Soviet republics which still punish those who cannot serve in the armed forces on grounds of conscience, Armenia has the highest rate of imprisonment for objectors. Turkmenistan, Azerbaijan and Belarus – as well as the unrecognised entity of Nagorno-Karabakh in the south Caucasus - have all imprisoned conscientious objectors in recent years.

The current number of imprisoned Jehovah's Witness conscientious objectors in Armenia is 32. Although this is much reduced from the figure until late 2011 of about 70, Jehovah's Witnesses fear that with the unresolved situation the 16 young men whose prison terms have not yet been enacted could be imprisoned at any time.

Ignoring ECtHR

Jehovah's Witnesses complained to Forum 18 that the continuing prosecution of their young men "illustrates that the authorities, at least at the lower levels, seem to be completely ignoring the Bayatyan ruling".

In July 2011, in a landmark judgment, the European Court of Human Rights (ECtHR) in Strasbourg found that Armenia had violated the rights to freedom of conscience and belief of Armenian Jehovah's Witness conscientious objector Vahan Bayatyan. It ordered the Armenian government to pay him compensation. The ECtHR handed down two similar judgments against Armenia – in cases brought by Hayk Bukharatyan and Ashot Tsaturyan - in January 2012 (see F18News 1 February 2012 http://www.forum18.org/Archive.php?article_id=1661).

Although Jehovah's Witnesses told Forum 18 that the Armenian government has paid all three victims the compensation due to them, they are concerned that it has not taken steps to remove the violation of the European Convention on Human Rights which caused the country to be fined. Many of the more recent prisoners have lodged further cases with the ECtHR.

Concerns dismissed

Deputy Justice Minister Ruben Melikyan dismissed suggestions that the continuing sentencing and imprisonment of conscientious objectors violates Armenia's Council of Europe commitments and requirements under the Bayatyan and other ECtHR judgments. "Those cases were lodged back in 2003 and relate to the situation before Armenia's Alternative Service Law was adopted," he insisted to Forum 18 from Yerevan on 19 September.

Told that ECtHR judgments require states to take action to ensure that violations cannot recur and that the Council of Europe and the United Nations have repeatedly told Armenia that the 2003 Alternative Service Law (amended in 2004 and 2006) does not meet Armenia's international human rights obligations, Melikyan repeated his assertion that these judgments only cover the past.

"We don't agree with colleagues [abroad] that the Bayatyan judgment covers today," he told Forum 18. "It is a different situation now."

Also defending the continuing prosecution of conscientious objectors was Sona Truzyan, spokesperson for the General Prosecutor's Office. "The law is the law and we have to enforce it," she told Forum 18 from Yerevan on 20 September. "What is in the law isn't a matter for the General Prosecutor's Office."

32 prisoners

All the conscientious objector prisoners are Jehovah's Witnesses and are serving sentences of between two and three years' imprisonment. They were all convicted under Criminal Code Article 327, Part 1, which punishes evasion of the call-up to military or alternative service. The maximum sentence under this article was increased to three years' imprisonment in December 2005.

The latest prisoners, Khudoyan and Sahakyan, have both been sent to serve their sentences at the prison in Nubarashen near Yerevan, Jehovah's Witnesses told Forum 18. Khudoyan had been sentenced on 6 August, and Sahakyan on 23 August.

Of the 30 other prisoners sentenced in 2010 and 2011, 20 are being held at Erebuni Prison in Yerevan. Eight are being held at Kosh Prison, while two are in Artik Prison. The longest-serving prisoner is Samvel Prutyian, given a 30-month sentence on 23 March 2010, who is in the final days of his sentence.

16 awaiting imprisonment

Between 14 March and 13 September, 16 Jehovah's Witness young men were found guilty under Article 327, Part 1 and sentenced to prison terms of between 24 and 30 months. On 12 September Davit Arakelyan was given a 24-month sentence. On 13 September alone, Vahe Sargsyan, Gevorg Arakelyan and Tigran Boyajyan were each given 24-month sentences, while Vahe Ter-Galstanyan was given a 30-month sentence.

All have appealed against their sentences. While the appeal process drags on, they have not been imprisoned.

Truzyan of the General Prosecutor's Office was unable to explain why the 16 young men have not been imprisoned when in the two August cases – and in earlier years - such immediate jailings were routine. She promised to respond to Forum 18's written questions about this sent on 20 September.

More sentences?

Jehovah's Witnesses told Forum 18 on 20 September that the cases of a further 23 young men who have refused military service and military-controlled alternative service are now with investigators or are already in the courts.

Double condemnation

Armenia's failure to free imprisoned conscientious objectors and introduce a genuinely civilian alternative to military service has repeatedly been condemned by international organisations of which the country is a member. In 2012 alone, condemnation came from the Parliamentary Assembly of the Council of Europe (PACE) and the United Nations Human Rights Committee. These recommendations from the two organisations "have been ignored", Jehovah's Witnesses lamented to Forum 18.

In its 14 March report on how Armenia is honouring its Council of Europe commitments, PACE complained that the process of bringing the Alternative Service Law into line with Armenia's commitments "has taken an excessively long time, especially given that persons that refuse both military and alternative service are being arrested and sentenced to prison, in contradiction with Armenia's commitments to the Council of Europe".

PACE's Monitoring Committee noted that the European Court of Human Rights (ECtHR) in Strasbourg has already found against the country in alternative service cases. It called on Armenia to "adopt without delay the necessary amendments to the Law on Alternative Service, taking into account the Venice Commission's comments on them; freeze the prosecution of conscientious objectors pending the adoption of the new law and refrain from requesting pre-trial detention for the persons concerned; use all legal means available to the authorities to release those convicted - or in pre-trial detention – for refusing to serve in the absence of a proper civilian alternative service on conscientious grounds".

After considering Armenia's record under the International Covenant on Civil and Political Rights on 16 and 17 July, the UN Human Rights Committee adopted its conclusions on Armenia on 25 July (CCPR/C/ARM/CO/2-3). It expressed concern that despite amendments, the Alternative Service Law "still does not guarantee conscientious objectors a genuine alternative service of a clearly civilian nature. The Committee is also concerned that conscientious objectors, overwhelmingly Jehovah's Witnesses, are still imprisoned when they refuse to perform the military service and the existing alternative military service."

The Committee called on Armenia to "put in place a real alternative to military service, which is genuinely non-military, accessible to all conscientious objectors and neither punitive nor discriminatory in nature, cost or duration". It also called for the release of all those imprisoned for refusing either military service or the current alternative service.

New Law?

Deputy Justice Minister Melikyan told Forum 18 that the new version of the Alternative Service Law is close to completion. He said the draft was approved by the government in the summer and was then looked at again as "technical issues needed to be reconsidered". He said it is about to be sent to Parliament. He was unable to say when the text would be publicly available.

The 2011 draft of amendments to the Alternative Service Law was the subject of two highly critical legal opinions – by the Organisation for Security and Co-operation in Europe (OSCE) in September 2011 and the Council of Europe's Venice Commission in December 2011 (see F18News 1 February 2012 http://www.forum18.org/Archive.php?article_id=1661).

"The draft Law has been changed to make it more appropriate and to incorporate points made by the Venice Commission," Melikyan maintained. "We will implement it."

Melikyan claimed that the new Law will remove any military control over alternative service, a concern expressed by the OSCE, the Venice Commission, human rights defenders and Jehovah's Witnesses.

However, he said the new Law would only allow members of religious communities whose faith is accepted as pacifist to be allowed to do alternative service under the new Law. "It won't be a Law that allows anyone to do alternative service."

Told that international human rights commitments require Armenia to allow any individuals who have conscientious objections to participating in the military to do alternative service, Melikyan rejected this. "We can't allow this. Armenia faces serious threats to its security."

Ending imprisonment?

Melikyan also insisted that those currently imprisoned will also have the opportunity to resolve their situation once the Law is adopted. "They will be able to apply to the courts to have their judgment changed to allow them to be transferred to alternative service."

Told that the PACE and the United Nations – among others – had called for all imprisoned conscientious objectors to be freed immediately and that they should not therefore have to seek such release themselves, Melikyan responded: "Well, if they don't go to court the Prosecutor's Office will go to court to seek their release on their behalf."

Aram Vardevanyan, head of the Legal Department of Armenia's Human Rights Ombudsperson's Office, said that the continuing imprisonment of conscientious objectors is a violation of their human rights. "We share the concern that they are still in prison," he told Forum 18 from Yerevan on 19 September.

Vardevanyan insists that the 2011 draft amendments to the Alternative Service Law "are old and have been left behind". But he said the Ombudsperson's Office does not know when it will receive the text of the proposed new draft from the Justice Ministry.

Scepticism

Human rights defenders are sceptical about the proposed new Alternative Service Law, echoing PACE's concerns about the "excessively long time" over adopting it. "The Justice Ministry talks a lot but does nothing," Artur Sakunts, head of the Helsinki Citizen's Assembly Vanadzor Office, told Forum 18 on 19 September. He laments the long-running failure to introduce fully civilian alternative service and free those imprisoned.

Stepan Danielyan, head of the Yerevan-based Collaboration for Democracy human rights group which has long called for a change to the Alternative Service Law, worries that public opinion might be growing more hostile to allowing young men to conduct a civilian alternative service. "Fear is growing in society that there will be a new war," he told Forum 18 from Yerevan on 20 September. "This is having an effect on society." (END)

More coverage of freedom of thought, conscience and belief in Armenia and the unrecognised entity of Nagorno-Karabakh is at <http://www.forum18.org/Archive.php?query=&religion=all&country=21>

A personal commentary, by Derek Brett of Conscience and Peace Tax International, on conscientious objection to military service and international law in the light of the European Court of Human Rights' July 2011 Bayatyan judgment is at http://www.forum18.org/Archive.php?article_id=1597.

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.

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

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