

7 August 2014

AZERBAIJAN: NSM secret police detentions extended, conscientious objector's appeal fails

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

Two Muslim prisoners of conscience detained since April, Eldeniz Hajiyev and Ismayil Mammadov, had their pre-trial detention in the hands of Azerbaijan's NSM secret police extended for a further two months today (7 August), Forum 18 News Service has been told. Pre-trial detention for a third prisoner of conscience, Revan Sabzaliyev who was detained in May, was extended three days earlier. If convicted, the three men face up to three years' imprisonment for participating in a meeting which was raided by armed police and the NSM secret police. The men had met with other Muslims to discuss their faith with the help of the writings of Islamic theologian Said Nursi. The rulings come after an appeal court in southern Azerbaijan rejected the appeal of Jehovah's Witness conscientious objector Kamran Shikhaliyev against a one-year sentence in a military disciplinary unit. In all these cases Forum 18 has been told that violence has been used by officials against those in their power. There are also continuing administrative fines of people for exercising their freedom of religion or belief.

Sabaill District Court in Azerbaijan's capital Baku today (7 August) extended for a further two months the pre-trial detention in National Security Ministry (NSM) secret police custody of two Muslim prisoners of conscience detained since April, Eldeniz Hajiyev and Ismayil Mammadov. Pre-trial detention for a third prisoner of conscience in the case, Revan Sabzaliyev who was detained in May, was extended three days earlier, several of their friends separately told Forum 18 News Service from Baku on 7 August. If convicted the three men face up to three years' imprisonment for participating in a meeting to discuss their faith which was raided by armed police and the NSM secret police.

The rulings come after an appeal court in southern Azerbaijan rejected the appeal of a Jehovah's Witness conscientious objector against a one-year sentence in a military disciplinary unit (see below).

Recent months have also seen continuing administrative punishments on people for exercising their right to freedom of religion or belief (see below).

Further two month detention extensions

Hajiyev, Mammadov and Sabzaliyev were meeting in Hajiyev's Baku home on 12 April when armed police and secret police raided it. Muslims had gathered in the home to study their faith with the help of the writings of the late Turkish Muslim theologian Said Nursi. Hajiyev and Mammadov have been under arrest since the raid. Nine others who attended the meeting were fined (see F18News 16 April 2014 http://www.forum18.org/archive.php?article_id=1948). Sabzaliyev was arrested by the NSM secret police in Baku on 23 May (see F18News 9 June 2014 http://www.forum18.org/archive.php?article_id=1967).

The NSM has beaten up at least one Muslim in a bid to gain "evidence" for their case, and nine Muslims who attended the meeting have been given large fines equivalent to nearly four months' average wages (see F18News 8 May 2014 http://www.forum18.org/archive.php?article_id=1956).

Nursi's theological works are banned in Azerbaijan, along with other religious works and sacred texts such as the Old Testament, and all are subject to confiscation during raids (see F18News 3 June 2014 http://www.forum18.org/archive.php?article_id=1964).

In closed hearings one after the other in the same Sabail District Court courtroom on the afternoon of 7 August, Judge Rauf Akhmedov extended Hajiyev's and Mammadov's detention for a further two months, until 13 October. The court rejected requests to free the men on bail of at least 11,000 Manats (about 87,600 Norwegian Kroner, 10,500 Euros, or 14,000 US Dollars), above the legal minimum of 10,000 Manats.

"About 50 of their friends arrived at the court, but had to wait outside as the hearings were closed," a friend of the three detainees told Forum 18. "More would have been there had they had more notice of the hearing."

Mammadov – who spent some of his period in detention in hospital – is suffering from the often-fatal disease of tuberculosis. He

appeared behind a glass screen in court to help prevent others possibly contracting the disease.

Sabzaliyev's detention was extended by a further two months at a hearing at Sabail District Court on 4 August.

One friend of the three prisoners of conscience notes that Hajiyev's and Mammadov's detention cannot under Azerbaijan's published laws be extended any further. "They will have to either bring the cases to trial or release them," the friend told Forum 18. "Most likely they will go to trial."

"All they did was read holy books"

All three are being investigated by NSM secret police investigators under Criminal Code Article 168.2.

Article 168 punishes "Creation of a group carrying out activity under the pretext of spreading a religious faith and carrying out religious activity and by this illegally harming social order, or harming the health of citizens or violating the rights of citizens irrespective of the form of infringement, as well as distracting citizens from performance of duties established by law, as well as leadership of such a group or participation in it". Cases when minors are involved are prosecuted under Article 168.2, which carries a maximum punishment of three years' imprisonment (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=1690).

NSM secret police investigators have refused to discuss the progress of their investigation with Forum 18. All three men reject the accusations against them. "All they did was read holy books which have not been banned here", one friend insisted to Forum 18.

Hajiyev, Mammadov and Sabzaliyev are being held at the NSM secret police investigation prison on the upper floor of the main NSM building in Baku. Its address is:

Milli Təhlükəsizlik Nazirliyinin

Istintaq Təcridxanası

Parlament Prospekti 14

Baku AZ1006

Azerbaijan

Conscientious objector's appeal rejected

Jehovah's Witness conscientious objector Kamran Shikhaliyev has failed in his appeal against a one-year sentence in a military disciplinary unit. Judge Etibar Jamalov of Shirvan Appeal Court's Military Collegium finally upheld the original sentence on 16 July, the court chancellery told Forum 18 on 6 August. "If he is dissatisfied, he could appeal further to the Supreme Court in Baku," the chancellery official added.

Shikhaliyev was forcibly conscripted in Baku in October 2013 just days after his 18th birthday and then was transferred to a military unit. Shikhaliyev has been maltreated since his enforced conscription. "Despite physical abuse, verbal humiliation, and psychological pressure, Shikhaliyev has refused to wear a military uniform, perform military duties, or take the military oath", Jehovah's Witnesses have told Forum 18. "He has not wavered in his conscientious religious position" (see F18News 10 February 2014 http://www.forum18.org/archive.php?article_id=1926).

Before its accession to the Council of Europe in January 2001, 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". There are no signs that the government has any intention of keeping this promise (see Forum18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=1690).

In April 2014 Jalilabad Military Court sentenced Shikhaliyev under Criminal Code Article 335.1 ("Evasion of military service by causing harm to health or in another way") to one year in a disciplinary military unit (see F18News 8 May 2014 http://www.forum18.org/archive.php?article_id=1956). His appeal hearing was originally due on 11 June (see F18News 3 June 2014 http://www.forum18.org/archive.php?article_id=1964).

Neither prisoner of conscience Shikhaliyev nor his lawyer Yashar Musayev have so far received the written decision from the Court, Jehovah's Witnesses told Forum 18 on 7 August. Shikhaliyev has not yet filed a further appeal.

As of early August, Shikhaliyev remained at the same Military Unit No. 704 he has been held at since his forcible conscription. This is in Astara near Lankaran on the south-eastern border with Iran, Jehovah's Witnesses added. They said he had not yet been transferred to a military disciplinary unit.

"What lawful request did he disobey?"

Meanwhile, on 19 July police in the central town of Mingeçaur [Mingäcevir] detained two local Jehovah's Witnesses – Sakina Najafova and Elchin Bakirov - for talking about their faith with other people, the Interior Ministry noted on its website the same day. It said administrative cases had been prepared.

The officers then invited Najafova and Bakirov to a police station, regarding their activity as "suspicious", but Bakirov refused. He was detained for this alleged insubordination, which was then used to bring him to court. "If Elchin was truly 'invited' to the police department, as the officers testified, would he not then have had the right to decline their 'invitation'?" Jehovah's Witnesses pointed out. "If so, what lawful request did he disobey?"

The following day, Bakirov was brought to Mingeçaur Town Court to face charges under Administrative Code Article 310.1. This punishes "wilful refusal to obey the lawful demand of a law-enforcement officer" with a fine of 200 Manats (about 1,600 Norwegian Kroner, 190 Euros, or 255 US Dollars) or up to one month's imprisonment.

Judge Mahbura Karimova found Bakirov guilty and fined him 200 Manats. "The Court relied on testimony from two police officers who stated they approached Elchin and his companion and, after introducing themselves, asked them not to disturb the inhabitants of the apartment building," Jehovah's Witnesses told Forum 18. "Yet there was no evidence of any disturbance or complaints from anyone."

Bakirov appealed against his conviction and fine to Sheki Appeal Court. No date has yet been set for a hearing.

"They shouldn't meet and share their faith"

The duty officer at Mingeçaur Police, who did not give his name, defended the prosecution – and the June prosecutions of other local Jehovah's Witnesses (see below). "They shouldn't meet and share their faith secretly," he insisted to Forum 18 on 7 August. "It's not difficult for them to tell us they'll be talking about Jehovah or holding meetings. But they need permission." Asked why they need permission to exercise their right to freedom of religion or belief, the officer responded: "We don't say what they're doing is bad – they just need permission."

The man who answered the phone in Agdash of Nizami Mammadov, the regional representative of the State Committee for Work with Religious Organisations whose territory includes Mingeçaur, put the phone down as soon as Forum 18 introduced itself on 7 August.

June Mingeçaur fines

Elchin Bakirov's 20 July fine came a month after two other Jehovah's Witnesses also in Mingeçaur were convicted and punished at the same court for exercising the right to freedom of religion or belief. On 18 June Judge Huseyn Mirzaliyev of Mingeçaur Town Court fined Rza Babayev and Asif Bakirov 1,500 Manats (about 11,900 Norwegian Kroner, 1,430 Euros, or 1,900 US Dollars) each under Administrative Code Article 299.0.2.

The fines followed an 8 June police raid on Bakirov's home where 22 people had gathered for a Jehovah's Witness meeting. All 22 were held for questioning about what police claim was "illegal" publication and distribution of religious materials. They claim 13 of the books were "illegal". Asked why his officers had raided a private home during a religious meeting, Mingeçaur police chief Colonel Alasgar Badalov insisted to Forum 18: "It wasn't a raid" (see F18News 9 June 2014 http://www.forum18.org/archive.php?article_id=1967).

Article 299.0.2 punishes "violating legislation on holding religious meetings, marches, and other religious ceremonies" with punishments on individuals of a fine of between 1,500 and 2,000 Manats (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=1690). A fine of 1,500 Manats represents nearly four months' average wages, according to the State Statistics Committee.

Babayev and Asif Bakirov appealed to Sheki Appeal Court against their convictions and fines. On 18 July, Judge Rafail Aliyev upheld Bakirov's conviction and fine. On 21 July, Judge Mirbahadin Huseynov upheld Babayev's conviction and fine, according to the verdicts seen by Forum 18.

Four Gyanja fines

Following a 4 June police raid on a meeting in a private home in Azerbaijan's second city Gyanja [Gäncä], cases against four

Jehovah's Witnesses – Elgiz Aliyev, Rashad Niftaliyev, Tarana Mammadova and Akif Aliyev – were brought to the city's Kapaz District Court under Administrative Code Article 299.0.2.

During the 4 June raid, police searched the home, confiscating religious literature they claimed was "banned by law". Ten women, 11 men and a child were detained (see F18News 9 June 2014 http://www.forum18.org/archive.php?article_id=1967).

Elgiz Aliyev was fined 2,000 Manats (about 16,000 Norwegian Kroner, 1,900 Euros, or 2,550 US Dollars), while the other three - Niftaliyev, Akif Aliyev and Mammadova - were each fined 1,800 Manats (about 14,340 Norwegian Kroner, 1,700 Euros, or 2,295 US Dollars), Jehovah's Witnesses told Forum 18.

All four of those convicted appealed to Gyanja Appeal Court. On 14 July, Judge Teyyub Mukhtarov rejected Niftaliyev's appeal. On 16 July, Judge Fikret Aliyev rejected Akif Aliyev's appeal. On 17 July Judge Elchin Khasmammadov rejected Elgiz Aliyev's appeal, according to the court website. However, on 11 July the court upheld Mammadova's conviction but reduced her fine from 1,800 to 1,500 Manats.

Lankaran fines overturned

Following appeal hearings at Shirvan Appeal Court on 11 June, two Jehovah's Witnesses from the southern town of Lankaran have had earlier administrative punishments cancelled. Both had been punished under Administrative Code Article 299.0.2 and Article 299.0.4. Judge Amil Dosiyevev completely overturned the punishment on Fatmakhanim Huseynli. Judge Alasgar Novruzov partially overturned the punishment imposed on Tarana Huseynova, according to the court website. Both cases have been sent back for reconsideration.

Article 299.0.4 punishes "religious activity not within a religious association's registered address" with fines for individuals of between 1,500 and 2,000 Manats (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=1690).

Lankaran District Court had fined Huseynli and Huseynova 1,500 Manats each in May, while Klara Shirinova was convicted and given an official warning. They were convicted after police raided a meeting in a private home in Lankaran attended by about 20 people. Police seized religious literature (see F18News 3 June 2014 http://www.forum18.org/archive.php?article_id=1964).

Following an earlier incident, two other Jehovah's Witnesses from Lankaran have so far avoided punishment, despite police efforts. The two - Royal Agalarov and Fatima Ismayilzada – were detained on 25 April for speaking to others about their faith in public. Police charged both under Administrative Code Article 299.0.4, Jehovah's Witnesses told Forum 18.

On 30 June, Lankaran District Court convicted Ismayilzada and gave her an official warning. On 22 July, Lankaran District Court found Agalarov not guilty and dismissed the case against him. On 5 August, Shirvan Appeal Court partially upheld Ismayilzada's appeal and overturned her conviction. Her case has been sent back to the District Court for reconsideration. (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.

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