

11 August 2015

AZERBAIJAN: Muslim bookseller's prison sentence "a judicial secret"

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

Sunni Muslim prisoner of conscience Eyvaz Mammadov was given a nine-month prison term in Azerbaijan's capital Baku for selling religious books and other religious items which have not undergone state censorship. However, the assistant to the Judge who sentenced him described the sentence to Forum 18 News Service as a "judicial secret". Mammadov was the last of five Muslim prisoners of conscience to be jailed on the same charges. Another of the five, Salim Qasimov, failed in his appeal against his six-month prison sentence. Shia Muslim Jeyhun Jafarov has failed to overturn the latest court order that he should be held in pre-trial detention at the NSM secret police Investigation Prison in Baku for a further four months. An NSM secret police officer dismissed Forum 18's question as to whether Jafarov and two female Jehovah's Witnesses also held by the secret police might be subjected to torture. "There is no torture here – there can't be," the official insisted. Azerbaijan has refused to allow publication of a report on an April 2015 visit to this and other prisons by the UN Subcommittee on Prevention of Torture (SPT). The criminal trial of five Muslim former prisoners of conscience arrested for participating in a meeting to discuss their faith is due to resume in a Baku court on 7 September.

The nine-month prison term handed down to prisoner of conscience Eyvaz Mammadov is a "judicial secret", the assistant to the Judge who sentenced him told Forum 18 News Service from the Azerbaijani capital on 10 August. Judge Rashad Abdulov of Baku's Narimanov District Court handed down the sentence in late July or early August, his friends told Forum 18. Mammadov was the last of five Sunni Muslims from Baku convicted and imprisoned for selling religious books and other religious items which have not undergone state censorship.

All five of the Sunni Muslims had been running shops selling religious books and other items in Baku's Narimanov and Yasamal Districts. All had been arrested in late February and held until their sentences in the National Security Ministry (NSM) secret police Investigation Prison in Baku.

The five were imprisoned under Criminal Code Article 167-2.1. This punishes: "Production, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation". Punishments for first time offenders acting alone are a fine of 5,000 to 7,000 Manats, or up to two years' imprisonment.

The other four - Imam Mubariz Qarayev, Salim Qasimov, Azad Qafarov and Habibullah Omarov – received prison terms of between six and fifteen months in early July (see F18News 13 July 2015 http://www.forum18.org/archive.php?article_id=2080).

The five Muslims were connected with the Sunni Lezgin Mosque in Baku's Old City, where Imam Qarayev had led prayers until his arrest. The government intends to forcibly close the Mosque, one of many Sunni mosques the government has closed (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061).

The jailing of Muslim and Jehovah's Witness prisoners of conscience for their beliefs is part of a broader state crackdown, including the jailing of many other prisoners of conscience, on people exercising human rights Azerbaijan's government has solemn international obligations to protect.

Appeal fails

Qasimov, who was given a six-month prison term at Baku's Yasamal District Court, appealed against his conviction to Baku Appeal Court. However, on 30 July Judge Ilqar Murquzov rejected his appeal, according to court records.

Pre-trial detention counts towards the term of imprisonment. As Qasimov was arrested on 24 February, he is due for release on 24 August.

After he was sentenced, Omarov was transferred from Baku's NSM Investigation Prison to Investigation Prison No. 1 at Kurdakhani

in Baku's Sabunchu District. Their friends told Forum 18 that they believe Qafarov, Imam Qarayev and Qasimov may already also have been transferred to Kurdakhani Investigation Prison. Its address is:

AZ-1104, Baki shahari

Sabunchu rayonu

Zabrat-2 qasabasi

Baki Istintaq tacridxanasi

Azerbaijan

Pre-trial detention appeal rejected

The 43-year-old imprisoned Shia Muslim Jeyhun Jafarov has failed in his attempt to overturn Sabail District Court's 9 July decision extending his pre-trial detention by a further four months. On 21 July, Judge Jamal Ramazanov of Baku Appeal Court rejected his challenge to the decision, according to court records.

"Jeyhun is still being held at the National Security Ministry secret police," Jafarov's lawyer Javad Javadov told Forum 18 from Baku on 10 August. "His health is OK, but he's still being denied religious literature."

Prisoner of conscience Jafarov was arrested on 10 March to punish him for exercising his right to freedom of religion or belief by being a translator of Islamic works and public broadcasts. He has been held at the NSM secret police Investigation Prison in Baku since his arrest. The NSM secret police is investigating him on charge of treason under Criminal Code Article 274. If tried and convicted, he faces imprisonment of between 12 years and life (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061).

The 9 July extension to his pre-trial detention means that the NSM secret police can hold Jafarov until 11 November (see F18News 10 July 2015 http://www.forum18.org/archive.php?article_id=2079).

Three secret police freedom of religion or belief prisoners of conscience

As well as Jafarov, two other prisoners of conscience imprisoned for exercising their right to freedom of religion or belief are being held at the NSM secret police Investigation Prison in Baku. Two female Jehovah's Witnesses, 54-year-old Irina Zakharchenko and 37-year-old Valida Jabrayilova, were arrested in February to punish them for talking to residents near their homes about their faith in December 2014. They have been held in the prison since their arrests. A Baku court on 4 July extended their pre-trial detention once more until 17 September (see F18News 10 July 2015 http://www.forum18.org/archive.php?article_id=2079).

The two women are being investigated under Criminal Code Article 167-2.2.1. This punishes: "Production, sale and distribution of religious literature, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation" when conducted by an "organised group". Punishment is a fine or imprisonment of two to five years. The prisoners of conscience' appeal against their pre-trial detention was rejected on 26 February (see F18News 16 March 2015 http://www.forum18.org/archive.php?article_id=2048).

The NSM Investigation Prison where Jafarov, Zakharchenko and Jabrayilova are being held is located on the upper floor of the main NSM secret police building in Baku. The prison address is:

Milli Tahlükəsizlik Nazirliyinin

Istintaq Tacridxanasi

Parlament Prospekti 14

Baku AZ-1006

Azerbaijan

"No deaths, no torture" in NSM prison?

Jehovah's Witnesses have repeatedly appealed for the release of Zakharchenko and Jabrayilova. They point out that doctors have assessed Zakharchenko to be 80 percent disabled because of severe arthritis and a previous injury to her right leg. Jehovah's Witnesses have also expressed concern about both women's emotional well-being. In April, appeals over the women's detention

were lodged with the United Nations Office of the High Commissioner for Human Rights (see F18News 10 July 2015 http://www.forum18.org/archive.php?article_id=2079).

The duty officer at the NSM secret police Investigation Prison refused to discuss the health and well-being of Jafarov, Zakharchenko and Jabrayilova with Forum 18 on 11 August. He would not even say whether or not they are still alive. The unnamed officer referred Forum 18 to an unnamed officer of the NSM International Department.

The International Department official – who would not give his name - took a note of the three prisoners of conscience Forum 18 was enquiring about. Asked whether the three are at least still alive, the officer responded: "We've had no deaths at the prison." Asked whether any of the three are being tortured, the officer laughed. "There is no torture here – there can't be. That is something from the Middle Ages. It's not the time of Stalin either." He promised to find out information on the three prisoners.

Asked why the prison had reportedly dismissed any concerns following an enquiry by the International Committee of the Red Cross (ICRC) about the health of Zakharchenko and Jabrayilova, the NSM International Department said he knew nothing about that (see F18News 10 July 2015 http://www.forum18.org/archive.php?article_id=2079).

The NSM Investigation Prison was one of a number of prisons the UN

Subcommittee on Prevention of Torture (SPT) visited in late April 2015,

after a September 2014 visit it was forced to suspend after encountering "obstructions" from the authorities. Aisha Shujune Muhammad, head of the SPT delegation, noted on 24 April 2015 at the end of the visit that Azerbaijan "has yet to guarantee all fundamental legal and procedural safeguards to persons deprived of their liberty, including access to a lawyer, a medical doctor, and to contact his or her family". Azerbaijan has refused to allow publication of the SPT's report on

the April visit (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081).

Prisoner of conscience completes sentence

The 31-year-old Shia Muslim prayer leader and preacher Taleh Bagirov (also known as Bagirzade) completed his combined prison term of two years and four months and was freed from Qobustan Prison soon after 2 am on 31 July. His supporters and journalists had been planning to arrive at the prison at 9 am, so the authorities apparently decided to free him several hours before that without a large crowd being present. On release Bagirov had to telephone his supporters to come to collect him to take him home, Caucasian Knot news agency noted the same day.

The Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) noted that prisoners in Qobustan have been subjected to torture (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061).

In interviews with Caucasian Knot, Radio Free Europe and Voice of America in the days after his release, Bagirov spoke of being transferred from the "small prison [Qobustan] to the large prison", a reference to Azerbaijan. "Allah has helped us to stay on our feet and continue to struggle," he told Radio Free Europe on 31 July. "It was He who gave us the strength. As our first duty we thank Allah."

Bagirov called for the release of religious and civil society prisoners of conscience, particularly Leyla Yunus and the lawyer Intigam Aliyev (who are both among civil society figures now on trial in Baku), as well as Islamic Party activists.

Imam Bagirov was given a two-year strict regime prison sentence in November 2013 on drugs charges his supporters insist were fabricated to punish him for his religious and political activity. His driver Anar Melikov was also jailed for 19-months in August 2013 (see F18News 7 November 2013 http://www.forum18.org/archive.php?article_id=1894). At a further trial in August 2014, a Baku court sentenced Bagirov to an extra four months' imprisonment for allegedly having an illegal mobile phone in his cell (see F18News 14 August 2014 http://www.forum18.org/archive.php?article_id=1985).

In November 2014, Baku's Qaradag District Court ordered Bagirov's transfer to a harsher prison regime. In December 2014, even before the decision had come into force, he was transferred from an ordinary regime camp to the harsher Qobustan Prison, along the coast to the south-west of Baku, where prisoners are held in isolation (see F18News 21 April 2015 http://www.forum18.org/archive.php?article_id=2057).

Bagirov's release came the day after the Supreme Court rejected the appeal against his transfer to Qobustan Prison submitted on his behalf by his lawyer Javadov (who is also Jafarov's lawyer). On 29 July, Judge Ali Seyfaliyev dismissed the appeal, according to Supreme Court records.

Javadov had submitted the appeal to Baku Appeal Court. However, in April Judge Aflatun Qasimov suspended consideration of the

appeal. The Judge rejected Javadov's motion to have a full court re-examination of the evidence allegedly justifying the transfer. The appeal was then transferred to the Supreme Court (see F18News 21 April 2015 http://www.forum18.org/archive.php?article_id=2057).

Criminal trial of five former prisoners of conscience to resume 7 September

The long-running criminal trial of five other Sunni Muslims under Judge Akshin Afandiyev at Baku's Yasamal District Court is due to resume on 7 September, their friends told Forum 18 from Baku on 11 August. "The trial is being dragged out, as witnesses didn't come to court," one friend said. "Eldeniz Hajiyev then lodged a complaint to court about the repeated delays and the court then brought in one of the witnesses after a three-month delay."

Since the five men's release from the NSM secret police Investigation Prison and transfer to house arrest in September 2014, they have been able to live at home. However, while the trial drags on they remain under restrictions over their movement, the friend complained to Forum 18.

The five Muslim former prisoners of conscience were with others arrested for participating in a meeting to discuss their faith which was raided by armed police and NSM secret police in April 2014. Officials confiscated religious books, money and mobile telephones. Almost all the 39 adults and two children present were taken to the police station for questioning. The five Muslims were transferred to house arrest in September 2014 after up to five months in pre-trial detention at the NSM secret police Investigation Prison in Baku (see F18News 22 September 2014 http://www.forum18.org/archive.php?article_id=1999).

Hajiyev and three others of the five - Ismayil Mammadov, Zakariyya Mammadov and Shahin Hasanov – face up to five years' imprisonment if convicted. The fifth - Revan Sabzaliyev – faces up to three years' imprisonment. The trial began with a preliminary hearing on 10 December 2014 and hearings have continued since then (see F18News 14 May 2015 http://www.forum18.org/archive.php?article_id=2061).

Hajiyev and Ismayil Mammadov are being tried under Criminal Code Article 167-2.2.1 and Article 168.2. Sabzaliyev is being tried under Criminal Code Article 168.2. Zakariyya Mammadov and Hasanov are being tried under Criminal Code Article 167-2.2.1 and Article 168.1. The Mammadovs are brothers and with Hajiyev and Hasanov face up to five years' imprisonment if convicted. Sabzaliyev faces up to three years' imprisonment (see F18News 12 February 2015 http://www.forum18.org/archive.php?article_id=2037).

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=2081). (END)

For more background information see Forum 18's July 2015 Azerbaijan religious freedom survey at http://www.forum18.org/archive.php?article_id=2081.

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

See also the Norwegian Helsinki Committee/Forum 18 report on freedom of religion or belief in Azerbaijan at: http://www.nhc.no/content/uploads/2018/07/Rapport2_15_Aserbajdsjan_web.pdf

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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