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AZERBAIJAN: Fines for religious meetings "correct"?

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

The judge who upheld a large fine on a Jehovah's Witness for attending a worship meeting rejects the victim's argument that the fine violates the European Convention on Human Rights (ECHR), telling Forum 18 his "decision is correct". Azerbaijan is obliged to implement the ECHR. And in March 2016 a new Administrative Code retaining fines and punishments for exercising freedom of religion and belief came into force.

An appeal court judge who rejected a victim's argument that fining individuals for participating in worship meetings violates the European Convention on Human Rights and Fundamental Freedoms has defended his decision. "We believe our decision is correct and legal," Judge Mirbahaddin Huseynov of Sheki Appeal Court told Forum 18 on 2 June from the court. On 22 April he upheld a large fine on Jehovah's Witness Eldar Aliyev. Told that Azerbaijan – as a member of the Council of Europe – is obliged to respect rights to freedom of religion or belief set out in the Convention, Judge Huseynov put the phone down.

The fine on Aliyev comes as officials continue to raid meetings for worship or religious study held away from state-registered places of worship. At least three police raids on Jehovah's Witness meetings in homes in different cities in 2016 have led to court cases, literature seizures and warnings. While 27 court cases which followed one raid ended in acquittals, others cases continue.

Sunni Muslims who study using the works of the late Turkish Muslim theologian Said Nursi have been pressured to stop study meetings. "They're under strong surveillance," one Muslim told Forum 18 from Baku on 31 May. "They're constantly warned not to meet, and if maybe five or six get together they immediately start to face pressure."

Police have frequently raided meetings of Muslims who study Nursi's works. Five men were imprisoned for taking part in a meeting in April 2014 in a Baku home to study their faith which was broken up in an armed police raid. Two of the five - Ismayil Mammadov and Eldeniz Hajiyev - remain in prison (see F18News 27 April 2016 http://www.forum18.org/archive.php?article_id=2173).

Meanwhile, in April and May police again prevented Muslims from praying in the yard around the Lezgin Mosque (also known as the Ashur Mosque) in Baku's Icherisheher (Old City).

"They didn't stop people praying around the mosque at Friday prayers on 27 May, but they did so in the weeks before that," one mosque member told Forum 18 from Baku on 1 June. The Sunni mosque is small and is often too full for all those wishing to attend Friday prayers to find space inside.

The Lezgin Mosque has repeatedly been threatened with closure and from whose congregation five men – including the Imam – were jailed as prisoners of conscience (see F18News 8 October 2015 http://www.forum18.org/archive.php?article_id=2109).

Tight restrictions on everyone's freedom of religion and belief

Azerbaijan imposes tight restrictions on everyone's freedom of religion and belief and related human rights, in defiance of its international human rights obligations. Both Muslims and Jehovah's Witnesses have been jailed in recent years for exercising their freedom of religion and belief, their fellow prisoners of conscience including many secular human rights defenders. Among the regime's other violations are: a highly restrictive censorship regime, including pre-publication, bookshop, photocopy shop and postal censorship, including a ban on the Old Testament and texts by Muslim theologian Said Nursi; enforced closures of places of worship, especially Sunni mosques; a ban on praying outside mosques; and the state attempting to choose all Muslim leaders. The regime attempts to counter discussion of its human rights violations with outright denials and claims of "inter-religious harmony", "religious tolerance" and similar assertions (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081).

Among the regime's other violations of freedom of religion and belief, it imposes a Shia-oriented unified calendar on all Muslims, irrespective of whether they follow this Islamic school. "If we pray according to the calendar we believe is correct, they'll arrest us," one Muslim told Forum 18 (see F18News 31 May 2016 http://www.forum18.org/archive.php?article_id=2183).

Mingachevir: religious meeting raided

On the afternoon of 9 January, police officers abruptly stopped a Jehovah's Witness meeting held in Aliyev's home in the north-western town of Mingachevir. Bursting into the house, officers shouted at the more than 20 people present, demanding they stop the meeting, Jehovah's Witnesses told Forum 18. Police officers told those present that the meeting was "unlawful" and that a permit was required to hold such meetings. Representatives of the regional administration, the city and the State Committee for Work with Religious Organisations participated in the raid.

Officers confiscated from those present personal copies of religious publications, including Bibles. The State Committee official stated that the Bible is a banned publication and must therefore be confiscated.

The Old Testament, Nursi's 14-volume "Risale-i Nur" (Messages of Light) collection of writings, and several Jehovah's Witness publications were included on a police list of alleged "banned" religious literature, based on State Committee "expert analyses" (see F18News 6 May 2014 http://www.forum18.org/archive.php?article_id=1955).

The State Committee does not publish any list of books it has banned, despite promises by the then State Committee Head in April 2013 that it would do so "soon" (see F18News 2 May 2013 http://www.forum18.org/archive.php?article_id=1830).

After seizing religious literature from those present at the Mingachevir Jehovah's Witness meeting, the police took all attendees to the town's Police Station, where officers questioned and ordered them to write statements. The police held them until 10.30 pm, after having deprived them of their liberty for six hours.

Major Elkhan Farajov of Mingachevir Police Public Safety Department drew up a record of an "offence" against Aliyev under Article 299.0.2 of the then Administrative Code (Article 515.0.2 of the new Administrative Code – see below), according to case materials. This Article punishes "Violating rules established by legislation on holding religious meetings, marches, and other religious ceremonies" with fines on individuals of 1,500 to 2,000 Manats. The case was then handed to court.

Mingachevir: fine and action against parents

On 3 March, Mingachevir City Court Judge Huseyn Mirzaliyev convicted Aliyev and fined him 1,500 Manats (8,400 Norwegian Kroner, 900 Euros or 1,000 US Dollars). The average monthly wage for employees in the first three months of 2016 was 485 Manats, according to the State Statistical Committee. The fine therefore represents more than three months wages for employees, though far more for those (like Aliyev) without formal work.

On 22 April, Judge Huseynov of Sheki Appeal Court rejected Aliyev's appeal, according to the decision seen by Forum 18. The Judge dismissed Aliyev's arguments that the punishments had violated his rights under Article 9 of the European Convention on Human Rights and Fundamental Freedoms. This guarantees the right to freedom of thought, conscience and religion for all, "either alone or in community with others and in public or private, to manifest his [sic] religion or belief, in worship, teaching, practice and observance".

After the raid, police officers summoned parents and children of the participants of the religious meeting. Police informed one of the parents, Arzu Ibrahimova, that they had issued a record of an administrative "offence" against her. They added that all materials under Article 51 of the old Administrative Code, which punished "Failure by parents and guardians to fulfil upbringing and educational responsibilities", were transferred to the Commission on Cases and Protection of Juveniles.

Gakh: religious meeting raided, administrative charges

On 23 March, police officers in the north-western town of Gakh [Qax] raided the home of Givi Khusishvili. They abruptly stopped the observance of the Memorial of Christ's death, the most sacred religious event of the year for Jehovah's Witnesses. Police officers showed what purported to be a court order authorising their search and confiscated personal copies of religious publications, including Bibles, Jehovah's Witnesses complained to Forum 18.

Officers then took all the attendees to the local police station, interrogated them, and ordered them to write statements. Police drew up records of an "offence" under the Administrative Code on dozens of those present. All were released soon after 9 pm.

A 23 March statement on the Interior Ministry website claimed that Khusishvili had violated the procedure for organising and holding religious meetings. It claimed the meeting had therefore been "prohibited by law". It said that of the 56 people present, more than 44 were local, while 9 were from Zakatala [Zaqatala], the region north of Gakh. Five were from Baku. The Interior Ministry said the 19 DVDs, two videos and 219 items of religious literature seized during the search had not been approved by the State Committee.

Many acquittals, but other cases in court

Cases under Administrative Code Article 515 against 27 attendees were handed to Gakh District Court. However, the Court's Judge Atabay Kichibayov dismissed all the cases for lack of an "offence", his assistant told Forum 18 from the court on 27 May. Ten of them were heard and dismissed on 24 May, the remaining 17 on 27 May.

"We are pleased that Judge Atabek Kichibayov pronounced just and legal decisions to halt the cases for lack of an administrative offence," Jehovah's Witnesses told Forum 18 on 29 May.

The same Judge Kichibayov acquitted a Jehovah's Witness in a case in May 2014 (see F18News 3 June 2014 http://www.forum18.org/archive.php?article_id=1964). In the case of a former imam in October 2015, the Judge gave an official warning rather than a fine for "illegal" religious meetings (see F18News 26 January 2016 http://www.forum18.org/archive.php?article_id=2142).

However, police handed to Zakatala District Court the records of an "offence" against the participants who had come down for the meeting from Zakatala. "We are still awaiting these hearings," Jehovah's Witnesses told Forum 18.

Zakatala District Court said one case under Administrative Code Article 515 – against a woman named Qurbanova – has already been handed to court and has been assigned to Judge Arif Ismayilov. Court officials refused to give Forum 18 any other details on 31 May.

Records of an "offence" against the participants from Baku were handed to the local police in the district of the capital where they live.

Sahil: religious meeting raided

On 17 January, police officers burst into the home of Marina Asadova in Sahil, a settlement on the Caspian Sea south-west of Baku. They abruptly halted a meeting for worship. Officers took Asadova to the local Police Station. Once the officers verified that religious publications they had seized were labelled with State Committee censorship stamps, they took Asadova back to her home.

The police recorded the identity of all the Jehovah's Witnesses who had been present before releasing them. The police warned Asadova not to host such religious meetings again.

Police across Azerbaijan frequently raid Jehovah's Witness worship meetings. Following a 14 November 2015 police raid on a meeting in the home of Nijat Panahov in Gyanja [Gänçä], 12 of those present were each fined 2,000 Manats. In December 2015, the city's Appeal Court rejected all 12 appeals (see F18News 16 December 2015 http://www.forum18.org/archive.php?article_id=2134).

New Administrative Code

The new Administrative Code entered into force 1 March 2016. Proposed by President Ilham Aliyev, it had been adopted by the Milli Majlis (Parliament) on 29 December 2015 and signed into law by the President on 15 February 2016. The new Code was officially published two days later in the government newspaper "Azerbaijan".

Article 299 of the old Code was transferred almost unchanged into Article 515 of the new Code. It retains the old severe restrictions on and high fines for exercising freedom of religion and belief (see Forum 18's July 2015 Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081 and the full text below).

Article 300 of the old Code was shortened. Parts 1 and 3 appear as Article 516 of the new Code. The new Article 516 retains the punishment at the previous level for sending individuals abroad for religious education without State Committee permission and selling state-approved religious literature and materials away from places where the state allows them to be sold - though it introduces a new additional punishment of deportation when these "offences" are conducted by those who are not citizens (see full text below).

The "administrative offences" punished by the old Articles 300.0.2 and 300.0.4 are now "crimes". The new Article 516 therefore removes the administrative punishments for religious "propaganda" by people who are not citizens and for distributing uncensored religious literature and materials.

Criminal Code Article 167-2 – adopted in December 2011 - supplanted the old Administrative Code Article 300.0.2 and punishes: "Production, sale and distribution of religious literature, audio and video materials, religious items and other informational materials of religious nature with the aim of import, sale and distribution without appropriate authorisation" (see Forum 18's July 2015 Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081).

December 2015 amendments to the Criminal Code added a new Article 168-1, whose Part 2 supplanted the old Administrative Code Article 300.0.4. Criminal Code Article 168-1 punishes: "violation of the procedure for religious propaganda and religious

ceremonies". Part 1 punishes the conducting of Islamic rites by a citizen who has received their education abroad with one year's imprisonment or a fine of between 2,000 and 5,000 Manats. Part 2 punishes "religious propaganda by foreigners and stateless persons" with imprisonment of between one and two years. Either of these "crimes" committed repeatedly or by prior agreement among a group of people is punishable by between two and five years' imprisonment (see F18News 16 December 2015 http://www.forum18.org/archive.php?article_id=2134).

- Article 515

Article 515.0 punishes "violation of the procedure for creating or running religious organisations"

Article 515.0.1 punishes "religious leaders who fail to register their communities with the state"

Article 515.0.2 punishes "violating legislation on holding religious meetings, marches, and other religious ceremonies"

Article 515.0.3 punishes "clergy and members of religious associations holding special meetings for children and young people, as well as the organising or holding by religious bodies of organised labour, literary, or other clubs and groups unassociated with holding religious ceremonies"

Article 515.0.4 punishes "religious associations operating away from their registered legal address";

Article 515.0.5 punishes "activity by a religious association that is not in accordance with its statute". [A community's statute must be approved by the government for state registration and so permission to exist to be given.]

Fines under Article 515 remain the same as the old Article 299 and are: for individuals between 1,500 and 2,000 Manats; and for officials between 7,000 and 8,000 Manats.

- Article 516

A harsh censorship regime backed by the Criminal Code and Religion Law is in force (see Forum 18's Azerbaijan religious freedom survey http://www.forum18.org/archive.php?article_id=2081). This is also backed by Administrative Code Article 516, which replaces the old Article 300, and which punishes "violation of legislation on freedom of religion":

Article 516.0.1 punishes "sending citizens abroad to study religion or exchanging religious figures without the permission of the relevant government authority [State Committee]";

Article 516.0.2 punishes "selling religious literature (printed or on electronic devices), audio and video materials, religious merchandise and products, or other religious informational materials, which have been authorised for sale under the Religion Law, outside specialised sale outlets established with the permission of the relevant government authority distributing religious literature, religious objects and information material without State Committee permission";

Punishments under Article 516 are, like the old Article 300: for individuals fines of between 2,000 and 2,500 Manats; for officials fines of between 8,000 and 9,000 Manats; for organisations fines of between 20,000 and 25,000 Manats; and for foreigners and stateless persons fines of between 2,000 and 2,500 Manats with deportation from Azerbaijan.

Those found guilty under Article 516, as in the old Article 300, also have their religious literature, merchandise and products or other materials confiscated. (END)

For more background information see Forum 18's 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>.

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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