

16 June 2021

AZERBAIJAN: 9 new Strasbourg judgments, 8 judgments awaited - list

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

The European Court of Human Rights (ECtHR) in Strasbourg issued judgments in May and June in eight freedom of religion or belief cases, finding that Azerbaijan had violated human rights and ordering compensation. One of the lawyers in seven of the cases, Asabali Mustafayev, said that all involved were "a little dissatisfied" with the ECtHR judgments, as the Court had not looked at all aspects of the violations included in the cases. The Court dismissed a ninth case. Eight other freedom of religion and belief cases from Azerbaijan are awaiting judgments.

The European Court of Human Rights (ECtHR) in Strasbourg issued judgments in May and June finding that Azerbaijan had violated human rights in a further eight freedom of religion or belief cases and ordering that the victims be paid compensation and costs. The regime contested all the cases. The Court dismissed a ninth case as "inadmissible".

Seven of the cases resulted from a police raid on a meeting for worship of Muslims reading the works of the late theologian Said Nursi and subsequent fines in June 2015. In the eighth case, the ECtHR found that Azerbaijan violated the rights of two women from the southern town of Masalli who had established the NGO Religion and Women's Rights in 2011, but which was denied registration (and thus the legal right to exist) by the Justice Ministry (see full list below).

The total amount Azerbaijan is to pay the victims in the eight cases is 25,500 Euros (52,500 Azerbaijani Manats, 257,000 Norwegian Kroner or 31,000 US Dollars), plus legal costs.

In line with Azerbaijan's legally-binding international human rights obligations, the decisions of both the United Nations (UN) Human Rights Committee and the ECtHR require the regime to change its laws and practices so that freedom of religion and belief violations cannot recur (https://www.forum18.org/archive.php?article_id=2664). Forum 18 is not aware of any proposed government legal or other changes to meet this obligation. Instead, Religion Law and Administrative Code amendments which President Ilham Aliyev signed into law today (16 June) increase state restrictions on the exercise of freedom of religion or belief (https://www.forum18.org/archive.php?article_id=2666).

One lawyer argues that more must be done to achieve the fulfilment of ECtHR judgments. "At present, the government offers only compensation for the judgments of the European Court of Human Rights," the lawyer – who asked not to be identified for fear of state reprisals – told Forum 18 on 15 June (https://www.forum18.org/archive.php?article_id=2664). "The Council of Europe must launch enforcement mechanisms, as the judgment of the Court alone is not enough for justice. Only the Court judgment together with an enforcement mechanism can be fair."

"It is easier a couple of times a year to buy off those few complainants who manage to get to the European Court than to change the well-established system that suits the authorities," Eldar Zeynalov of the Human Rights Centre of Azerbaijan told Forum 18 from Baku in March (https://www.forum18.org/archive.php?article_id=2647). "And if it is possible to do this without bringing the essence of the problem to public consideration at all, this is ideal for the government. And this is exactly what happens when concluding friendly settlements or when the ECtHR accepts a unilateral declaration from the government."

Baku lawyer Asabali Mustafayev, who worked on the seven men's cases, commented: "Demands on the government from outside are too weak," he told Forum 18 on 15 June (https://www.forum18.org/archive.php?article_id=2664). "The Council of Europe and other international organisations are not insistent enough, so the government gets away with flouting [its obligations]".

Mustafayev also said that all involved were "a little dissatisfied" with the ECtHR judgments, as the Court had not looked at all aspects of the violations included in the cases. He described the 3,000 Euros awarded to each victim as "a highly miserly sum", especially as it includes recompense for the fines that each had paid (see below).

Forum 18 was unable to reach Chingiz Asgarov, the government's representative to the ECtHR. His phone went unanswered each time it called.

The latest case lodged with the ECtHR, in April 2021, was that of Protestant Christian Rahim Akhundov who was dismissed from his job as a parliamentary staffer in Baku in December 2018. He said he was dismissed from his job at the Milli Majlis on the orders of the State Security Service (SSS) secret police for hosting meetings for worship at his home. However, the Court ruled his case "inadmissible" on 27 May (see below).

The latest judgments bring to 59 the number of known cases related to violations of freedom of religion or belief that have concluded at the ECtHR (see below).

Eight cases from Azerbaijan related to the regime's violations of freedom of religion or belief are known to remain at the Strasbourg court (see below).

UN Human Rights Committee decision: Police raid on meeting for worship

In addition to the ECtHR cases, the United Nations (UN) Human Rights Committee has also found that Azerbaijan has violated human rights in freedom of religion or belief cases. Most recently, it found - in a decision issued on 26 April (https://www.forum18.org/archive.php?article_id=2664) - that the regime had violated the rights of six Jehovah's Witnesses in Aliabad in the northern Zakatala District in September 2013. The six were among victims of a police raid, who were forcibly taken to the police station, had religious literature seized and were then fined (or in one case given an official warning).

Jehovah's Witnesses from Azerbaijan have six other freedom of religion or belief cases pending with the UN Human Rights Committee. Four relate to police raids on meetings for worship and two to speaking to others about their beliefs.

ECtHR judgment: Police raid on meeting for worship

Seven cases considered together (<https://hudoc.echr.coe.int/eng?i=001-176039>): Alakbarov v. Azerbaijan (Application No. 55503/15); Ismayilov v. Azerbaijan (Application No. 55507/15); Jabrayilov v. Azerbaijan (Application No. 55510/15); Sabuhi Mammadov v. Azerbaijan (Application No. 55512/15); Huseynov v. Azerbaijan (Application No. 55520/15); Gasimov v. Azerbaijan (Application No. 55524/15); and Yunusov v. Azerbaijan (Application No. 55531/15).

In June 2015, police and officials raided Sabuhi Mammadov's home in Gadabay in western Azerbaijan where Muslims who study Said Nursi's works were meeting (https://www.forum18.org/archive.php?article_id=2080). A court fined Mammadov for organising an "illegal" religious meeting, while Emin Alakbarov, Javanshir Ismayilov, Elmir Jabrayilov, Samir Huseynov, Rovshan Gasimov and Parvin Yunusov were among 13 others fined for "hooliganism" (https://www.forum18.org/archive.php?article_id=2080).

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-176039>) about the seven cases on 11 July 2017.

The ECtHR considered the seven cases together. In a judgment issued on 6 June 2021 (<http://hudoc.echr.coe.int/eng?i=001-210328>), the Court found that Azerbaijan had violated the rights of all seven. The ECtHR awarded compensation of 3,000 Euros to each of the seven, plus costs of 1,000 Euros for all the cases jointly, to be paid to their main lawyer, Rustam Mustafazade.

Asabali Mustafayev, a Baku lawyer who also worked on the seven men's cases, said all involved were "a little dissatisfied" with the ECtHR judgments, as the Court had not looked at all aspects of the violations included in the cases. He described the 3,000 Euros awarded to each victim as "a highly miserly sum", especially as it includes recompense for the fines that each had paid. He also described the sum awarded for legal costs as "very little, given that it covered legal costs for seven cases, entailing a lot of translation and postage of documents".

ECtHR judgment: NGO registration denial

Maharramova and Huseynova v. Azerbaijan (Application No. 31592/14 (<http://hudoc.echr.coe.int/eng?i=001-210013>)).

The group Religion and Women's Rights, founded by two women in the southern town of Masalli in 2011, applied to the Justice Ministry for registration as a non-governmental organisation (NGO). The Ministry twice in 2011 and twice in 2012 sent the application back, citing alleged irregularities in the documentation. The NGO challenged the denial through the courts, finally losing in the Supreme Court on 6 November 2013. Afruza Maharramova and Sadaya Huseynova lodged a case to the ECtHR on behalf of the NGO in April 2014.

The ECtHR asked the regime questions (<http://hudoc.echr.coe.int/eng?i=001-168327>) about the case on 11 October 2016.

The ECtHR considered the case together with 11 other cases where Azerbaijan had arbitrarily denied legal status to NGOs. In a judgment issued on 20 May 2021 (<http://hudoc.echr.coe.int/eng?i=001-210013>), the Court found that Azerbaijan had violated the rights of all 12 applicants. In the case of Religion and Women's Rights, it awarded compensation of 4,500 Euros jointly to Maharramova and Huseynova, plus costs of 6,000 Euros for all the cases together, to be paid to their lawyer, Intigam Aliyev.

New ECtHR case declared "inadmissible": Fired from work for exercise of freedom of religion or belief

Akhundov v. Azerbaijan (Application No. 20687/21).

In late April 2021, Protestant Christian Rahim Akhundov lodged a case to the European Court of Human Rights about his dismissal from his job as a parliamentary staffer in Baku in December 2018. He states that after he met friends and relatives at his Baku home for Christian worship, study, and discussion, he was dismissed from his job at the Milli Majlis on the orders of the State Security Service (SSS) secret police (https://www.forum18.org/archive.php?article_id=2579). Akhundov lost his final appeal at the Supreme Court in Baku on 23 September 2020.

The ECtHR ruled the case "inadmissible" on 27 May 2021.

Eight known cases awaiting ECtHR judgments

The ECtHR in Strasbourg has already completed 59 cases from Azerbaijan submitted since 2004 related to violations of freedom of religion or belief and inter-related rights.

Of these 59 completed cases:

- 19 ended in findings of violations and awards of compensation;
- 17 were closed after Azerbaijan admitted violations and offered compensation in a "unilateral declaration";
- 12 were friendly settlements, where the regime agreed to pay compensation (in 1 case it also admitted violations);
- 11 were dismissed or withdrawn (one following the death of the applicant).

Eight ECtHR cases related to the regime's violations of freedom of religion or belief are known to remain. The cases – submitted between 2012 and 2020 - cover a wide range of violations. Of these, 4 were lodged by Muslims and 4 by Jehovah's Witnesses. Some cases cover more than one violation, such as police seizing religious literature during a raid on a meeting for worship.

In approximate reverse chronological order of violation they are:

- State censorship of religious literature (1 case involving 1 individual applicant)
- Punished for conscientious objection to compulsory military service (2 cases involving 2 individual applicants)
- Raids on meetings for worship (2 cases involving 5 individual applicants and 1 community)
- Jailed for leading prayers (1 case involving 1 individual applicant)
- Unlawful house search (1 case involving 1 individual applicant)
- Registration denial (1 case involving 2 individual applicants and 1 community)

Details of all eight cases are given below.

ECtHR: State censorship of religious literature

Miriyev v. Azerbaijan (Application No. 1717/20).

In February 2018, the State Committee for Work with Religious Organisations on theological grounds banned the publication and distribution of the book (https://www.forum18.org/archive.php?article_id=2351) "Things Not Existing in Islam" by Muslim theologian Elshad Miri (also known as Miriyev). Repeated legal appeals against the ban failed (https://www.forum18.org/archive.php?article_id=2485). After failing on 20 December 2019 in the Supreme Court to overturn the ban, Miri lodged a case in the ECtHR (https://www.forum18.org/archive.php?article_id=2490).

The ECtHR has not yet asked the regime questions about the case.

ECtHR: Punished for conscientious objection to compulsory military service

1) Mehdiyev v. Azerbaijan (Application No. 52773/19 (<http://hudoc.echr.coe.int/eng?i=001-209027>)).

Emil Mehdiyev refused to perform military service on grounds of conscience and offered to do an alternative civilian service (which does not exist in Azerbaijan). In July 2018, Barda District Court convicted him and handed down a one-year suspended prison term, and required that he live under probation for one year (https://www.forum18.org/archive.php?article_id=2408). Ganca Appeal Court rejected his appeal in October 2018 (https://www.forum18.org/archive.php?article_id=2440). The Supreme Court rejected his final appeal in April 2019 (https://www.forum18.org/archive.php?article_id=2473). He filed his appeal to the ECtHR on 7 October 2019.

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-209027>) about the case on 1 March 2021.

2) Abilov v. Azerbaijan (Application No. 54768/19 (<https://hudoc.echr.coe.int/eng?i=001-209027>)).

Vahid Abilov refused to perform military service on grounds of conscience and offered to do an alternative civilian service (which does not exist in Azerbaijan). In September 2018, Agdam District Court found him guilty and sentenced him to a one-year suspended prison term (https://www.forum18.org/archive.php?article_id=2415). Ganca Appeal Court rejected his appeal in October 2018 (https://www.forum18.org/archive.php?article_id=2440). The Supreme Court rejected his final appeal in April 2019 (https://www.forum18.org/archive.php?article_id=2473). He filed his appeal to the ECtHR on 17 October 2019.

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-209027>) about the case on 1 March 2021.

ECtHR: Raids on meetings for worship

1) Rafiyev v. Azerbaijan (Application No. 81028/17 (<http://hudoc.echr.coe.int/eng?i=001-186530>)).

In March 2017, police raided a home in Quba where Muslims who study Said Nursi's works were meeting and seized religious literature. Almost all of those present were fined in March 2017, including Vuqar Rafiyev (https://www.forum18.org/archive.php?article_id=2294).

The ECtHR asked the regime questions (<http://hudoc.echr.coe.int/eng?i=001-186530>) about the case on 6 September 2018.

2) Niftaliyev and Others v. Azerbaijan (Application No. 561/12 (<https://hudoc.echr.coe.int/eng?i=001-175874>)).

In June 2011, police raided a Jehovah's Witness meeting for worship in Yegana Gahramanova's home in Ganca. A court fined Gahramanova, as well as Rashad Niftaliyev, Rana Sadigova and Teymur Valiyev (though his fine was reduced to a warning because of his disability) (https://www.forum18.org/archive.php?article_id=1604) for an "illegal" religious meeting. The Baku Jehovah's Witness community joined the application to the ECtHR.

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-175874>) about the case on 6 July 2017.

The ECtHR received all submissions from both parties by 7 February 2018, and the case is awaiting an ECtHR judgment.

ECtHR: Jailed for leading prayers

Babayev v. Azerbaijan (Application No. 34015/17 (<https://hudoc.echr.coe.int/eng?i=001-186531>)).

Police arrested Shia Muslim Imam Sardar Babayev in February 2017 and a court jailed him in July 2017 for three years for leading prayers in a mosque having gained his religious education outside Azerbaijan (https://www.forum18.org/archive.php?article_id=2295). He initially brought the case to challenge his pre-trial detention, but his lawyer updated the case after his jail sentence was finally upheld on 13 February 2018 (https://www.forum18.org/archive.php?article_id=2353).

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-186531>) about the case on 4 September 2018.

"The government gave its comments, they were sent to us and we in turn gave our comments," his lawyer Javad Javadov told Forum 18 in March 2020 (https://www.forum18.org/archive.php?article_id=2557). He said they are now waiting for the ECtHR to give its judgment.

ECtHR: Unlawful house search

Miragayev v. Azerbaijan (Application No. 29550/14 (<https://hudoc.echr.coe.int/eng?i=001-187776>)).

In May 2012 police and the then-National Security Ministry (NSM) secret police raided Zeka Miragayev's Baku home (https://www.forum18.org/archive.php?article_id=1719). Police confiscated 30 copies of the Koran, 24 other books (including some by Said Nursi), a computer, and a small sum of money. After repeated failures of legal challenges to the raid and confiscations

(https://www.forum18.org/archive.php?article_id=1820), the ECtHR application concerns the unlawful search of the applicant's flat. Miragayev also notes that he was not duly notified of a hearing before the Supreme Court.

The ECtHR asked the regime questions (<https://hudoc.echr.coe.int/eng?i=001-187776>) about the case on 24 October 2018.

ECtHR: Registration denial

Moroz and Others v. Azerbaijan (Application No. 49264/12).

Baku's Jehovah's Witness community was first registered in December 1999 and gained the compulsory re-registration in February 2002. It applied for another compulsory re-registration in November 2009 (https://www.forum18.org/archive.php?article_id=1389), but the State Committee rejected the re-registration application in February 2010 (https://www.forum18.org/archive.php?article_id=1429), after which the community went to court. After nearly two years from 2010 of unsuccessful legal challenges to the State Committee (https://www.forum18.org/archive.php?article_id=1632), in February 2012 Jehovah's Witnesses finally lost their case in the Supreme Court (https://www.forum18.org/archive.php?article_id=1689).

Leonid Moroz, another community member, and the Baku community itself then lodged their ECtHR application on 1 October 2012.

As of 15 June 2021, the ECtHR has not yet asked the regime questions about the case. (END)

Full reports on freedom of thought, conscience and belief in Azerbaijan
(<https://www.forum18.org/archive.php?query=&religion=all&country=23>)

For more background, see Forum 18's Azerbaijan religious freedom survey (https://www.forum18.org/archive.php?article_id=2429)

Forum 18's compilation of Organisation for Security and Co-operation in Europe (OSCE) freedom of religion or belief commitments
(https://www.forum18.org/archive.php?article_id=1351)

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