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AZERBAIJAN: Conscientious objector jailing "very unexpected decision"

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

On 22 September, a Goranboy court jailed 22-year-old Jehovah's Witness Seymour Mammadov for nine months for refusing compulsory military service on conscientious grounds. On 25 July – two days after his 18th birthday – officers seized conscientious objector Royal Karimov and forcibly took him to a military unit in Ganca, where he is still held. Baku's Sabail District Court extended to March 2023 the pre-trial detention of Shia Muslim Imam Sardar Babayev, held on treason charges since October 2021, Babayev's lawyer Javad Javadov told Forum 18.

Almost exactly a year after the European Court of Human Rights (ECtHR) in Strasbourg ordered Azerbaijan in October 2021 to pay compensation to two young men convicted earlier for refusing compulsory military service on grounds of conscience, a court has convicted another conscientious objector on the same charges. On 22 September 2022, a court in north-western Azerbaijan jailed 22-year-old Jehovah's Witness Seymour Mammadov for nine months. He had repeatedly expressed readiness to perform a civilian alternative service.

"It was a very unexpected decision, especially given the recent [ECtHR] decisions against Azerbaijan," Jehovah's Witnesses told Forum 18 from the capital Baku. They added that Mammadov intends to appeal as soon as he gets the verdict in writing (see below).

"We're not to blame," an officer at Goranboy District State Service for Mobilisation and Conscription insisted to Forum 18. "There is no alternative service." He declined to discuss Mammadov's case further (see below).

Another Jehovah's Witness, Royal Karimov, was seized and handed over to the army on 25 July – two days after his 18th birthday – despite telling conscription officials in Gadabay, the police and personnel in the military unit that he cannot perform military service on grounds of conscience but is ready to perform a civilian alternative service. He remains confined in a military unit in the north-western city of Ganca (see below).

Gadabay District State Service for Mobilisation and Conscription refused to discuss with Forum 18 why Karimov was forcibly taken to a military unit (see below).

Jehovah's Witnesses are conscientious objectors to military service and do not undertake any kind of activity supporting any country's military. But they are willing to undertake an alternative, totally civilian form of service, as is the right of all conscientious objectors to military service under international human rights law (https://www.quno.org/sites/default/files/resources/QUNO%20Conscientious%20Objection%20-%20International%20Standards_Revised%202021_FINAL.pdf).

Despite a pledge in January 2001 to the Council of Europe to introduce a civilian alternative service for those unable to perform military service on grounds of conscience, and repeated calls by the United Nations and other international bodies, Azerbaijan has failed to do so (see below).

Forum 18 asked the Human Rights Ombudsperson's Office in Baku in writing on the morning of 29 September what action it will take (if any) to defend Mammadov's rights and what action it will take (if any) to ensure that Azerbaijan introduces a civilian alternative service for those unable to serve in the army on grounds of conscience. Forum 18 received no response by the end of the working day in Baku (see below).

(In 2018 the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions downgraded the Azerbaijani Ombudsperson's Office to B status (https://www.forum18.org/archive.php?article_id=2408) because it "has not adequately spoken out in a manner that effectively promotes protection for all human rights, including in response to credible allegations of human rights violations having been committed by government authorities".)

Meanwhile, the pre-trial detention of Shia Muslim Imam Sardar Babayev has been extended until 19 March 2023. The State

Security Ministry (SSM) secret police arrested him in October 2021 on treason charges. His court-ordered pre-trial detention expired on 19 September 2022. Baku's Sabail District Court told Forum 18 on 29 September that it had not renewed the pre-trial detention order, but Babayev's lawyer Javad Javadov told Forum 18 the court had renewed the detention on 16 September (see below).

Shia Muslim prisoner of conscience Elshan Mustafayev was freed early from Prison No. 1 in Baku on 23 June after serving seven and a half years of his ten year sentence on treason charges. A Baku court approved his request for early conditional release after he had served three-quarters of his sentence. However, he remains under restrictions for the rest of his original term and cannot leave Baku without permission (see below).

Regime ignores repeated calls for alternative to military service

Military service of 18 months (12 months for those with higher education) is compulsory for all young men. Article 76, Part 2 of Azerbaijan's Constitution declares: "If the beliefs of citizens come into conflict with service in the army then in some cases envisaged by law alternative service instead of regular army service is permitted." However, no mechanism exists to enact this provision.

Ahead of its accession to the Council of Europe in January 2001, Azerbaijan promised (https://www.forum18.org/archive.php?article_id=2429) "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".

Azerbaijan has never done this, and conscientious objectors to military service have been repeatedly prosecuted and even jailed under Criminal Code Article 321.1. This states (https://www.forum18.org/archive.php?article_id=2429): "Evasion without lawful grounds of call-up to military service or of mobilisation, with the purpose of evading serving in the military, is punishable by imprisonment for up to two years [in peacetime]".

United Nations (UN) human rights bodies, the OSCE, and the Council of Europe's Venice Commission, and its European Commission against Racism and Intolerance (ECRI), have strongly criticised Azerbaijan's failure to introduce a civilian alternative to compulsory military service (https://www.forum18.org/archive.php?article_id=2429).

On 7 October 2021, in the latest of several such decisions (https://www.forum18.org/archive.php?article_id=2567), the European Court of Human Rights (ECtHR) in Strasbourg accepted Azerbaijan's admission that it had violated the human rights of two Jehovah's Witness young men who had been convicted in 2018 for refusing compulsory military service on grounds of conscience. Both Emil Mehdiyev and Vahid Abilov had declared a willingness to conduct an alternative civilian service. Both lost their appeals against their suspended jail terms in Azerbaijan's Supreme Court before taking their cases to Strasbourg. The ECtHR ordered that the victims be paid compensation and costs (https://www.forum18.org/archive.php?article_id=2695).

Despite the October 2021 ECtHR decision that the regime had violated the human rights of two more conscientious objectors, Saadat Novruzova of the Presidential Administration's Human Rights Protection Unit told Forum 18 the following month (https://www.forum18.org/archive.php?article_id=2695) that changing the law to introduce a civilian alternative to compulsory military service "is not under discussion".

The 7 October 2021 ECtHR decision reminded Azerbaijan of a similar earlier decision that "calls in principle for legislative action" to satisfy "the obligations incumbent on it of assuring .. the right to benefit from the right to conscientious objection" (https://www.forum18.org/archive.php?article_id=2695).

Forum 18 asked the Human Rights Ombudsperson's Office in Baku in writing on the morning of 29 September 2022 what action it will take (if any) to ensure that Azerbaijan introduces a civilian alternative service for those unable to serve in the army on grounds of conscience. Forum 18 received no response by the end of the working day in Baku of 29 September.

Refused alternative service, jailed

Seymur Afqan oglu Mammadov (born 16 August 2000) is a Jehovah's Witness from the north-western district of Goranboy. Goranboy District State Service for Mobilisation and Conscription summoned him on 4 May and conducted a medical examination.

Mammadov informed officers about his religious position as a conscientious objector to military service who is ready to perform civilian alternative service, as provided for by the Constitution and the decisions of the European Court of Human Rights (see above). Mammadov was subsequently informed that he had been restricted from leaving the country.

"We're not to blame," an officer at Goranboy District State Service for Mobilisation and Conscription insisted to Forum 18 on 29 September. "There is no alternative service." The officer declined to discuss Mammadov's case further and put the phone down.

On 21 June, Goranboy District Prosecutor's Office summoned Mammadov, where he again explained his religious position. Prosecutors charged him under Criminal Code Article 321.1 ("Evasion without lawful grounds of call-up to military service or of mobilisation"). On 6 August he was informed that his case was being referred to court.

Babek Aliyev of Goranboy District Prosecutor's Office refused to explain why a colleague opened the criminal case against Mammadov. "We are not allowed by law to give information on criminal cases," he told Forum 18 from Goranboy on 29 September.

On 22 September, Judge Taleh Mustafayev of Goranboy District Court sentenced Mammadov under Criminal Code Article 321.1 to nine months' imprisonment, the Judge's assistant told Forum 18 from the court on 29 September. He insisted that the court has already sent the written verdict to Mammadov "to the place where he is" and that he can appeal if he does not agree with the decision.

Mammadov was arrested in the courtroom at the end of the trial and was taken to Temporary Detention Prison No. 2 in Ganca. "It was a very unexpected decision, especially given the recent [ECtHR] decisions against Azerbaijan," Jehovah's Witnesses told Forum 18 from Baku on 29 September. They added that Mammadov intends to appeal against his conviction to Ganca Appeal Court. They say he has not yet received the written verdict.

Forum 18 asked the Human Rights Ombudsperson's Office in Baku in writing on the morning of 29 September what action it will take (if any) to defend Mammadov's rights. Forum 18 received no response by the end of the working day in Baku of 29 September.

Forcibly seized by army

Royal Karimov, a Jehovah's Witness from the western district of Gadabay, turned 18 on 23 July. Two days after his birthday, Gadabay District State Service for Mobilisation and Conscription summoned him. Once there, he explained his position that he could not serve in the army on grounds of conscience but was ready to perform an alternative civilian service. Officers assured him that he could return home after submitting documentation establishing his conscientious objection.

Instead, officers immediately took Karimov to Gadabay District Police. There Karimov again explained that he could not serve in the army on grounds of conscience but was ready to perform an alternative civilian service. Officers held him overnight at the police station. The following day he was taken to a military unit in Ganca against his will.

After being taken to military unit No. 777 in Ganca, Karimov again explained his position to officers but was not allowed to leave. He continues to be "illegally detained against his will" at the unit, Jehovah's Witnesses told Forum 18 on 29 September.

Forum 18 was unable to find out why officers seized Karimov and forcibly took him to a military unit. The man who answered the telephone at Gadabay District State Service for Mobilisation and Conscription on 29 September refused to discuss anything with Forum 18.

The man who answered the telephone of the head of Gadabay District Police on 29 September listened while Forum 18 outlined Karimov's case, then put the phone down before Forum 18 could ask any questions. Subsequent calls went unanswered.

Imam's detention extended until March 2023

The State Security Ministry (SSM) secret police arrested Shia Muslim Imam Sardar Akif oglu Babayev (born 12 March 1974) in October 2021 on treason charges. On 14 April 2022, Baku's Sabail District Court extended his pre-trial detention for a further five months (https://www.forum18.org/archive.php?article_id=2750), until 19 September.

Human rights defender Elshan Hasanov described the treason case against Imam Babayev as "clearly fabricated". "No one believes Sardar Babayev is an Iranian spy," exiled human rights defender Arif Yunus told Forum 18 in February (https://www.forum18.org/archive.php?article_id=2718).

From 2017 until his release in February 2020, Imam Babayev served a three-year jail term (https://www.forum18.org/archive.php?article_id=2557) for leading mosque prayers after gaining Islamic education outside Azerbaijan.

Sabail District Court told Forum 18 on 29 September 2022 that it had not renewed Babayev's pre-trial detention since April 2022. However, Babayev's lawyer Javad Javadov told Forum 18 from Baku on 29 September that on 16 September the court had extended his client's detention for a further six months, until 19 March 2023. Baku Appeal Court rejected Babayev's appeal against the further extension of his detention.

Babayev is still being held in the SSM secret police Investigation Prison in Baku, human rights defender Hasanov told Forum 18 from Baku on 29 September. "The whole case is kept secret," he added. "Getting information on it is impossible."

The telephone of the SSM secret police Press Office in Baku went unanswered each time Forum 18 called on 29 September.

Freed after seven and a half years

Shia Muslim prisoner of conscience Elshan Mustafaoglu Mustafayev (born 8 November 1974) was freed early from Prison No. 1 in Baku on 23 June after serving seven and a half years of his ten year sentence, his family told the local media the same day. Baku's Nizami District Court approved his request for early conditional release after he had served three-quarters of his sentence.

Mustafayev will remain under restrictions until the end of his original sentence in December 2024 (two and a half years from 23 June 2022). "During that time, I can't leave Azerbaijan," he told Forum 18 from Baku. "And to be able to leave Baku I need to inform the authorities."

Mustafayev used to work for the state-controlled Caucasian Muslim Board and presented programmes about religion on television. The then-National Security Ministry secret police arrested him in December 2014. It accused him of being a spy for Iran, being recruited in 1992 when he was 17.

A closed trial eventually began at Baku Serious Crimes Court with a preliminary hearing in July 2016 (https://www.forum18.org/archive.php?article_id=2203). The Court convicted Mustafayev of treason under Criminal Code Article 274 on 30 December 2016, handing him a ten-year jail term, to count from his December 2014 arrest. He denied the charges.

Mustafayev's lawyer Afqan Mammadov described the case against his client (https://www.forum18.org/archive.php?article_id=2203) in July 2016 as "a completely empty case, devoid of any legal basis". (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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