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AZERBAIJAN: "Massive" increased fines for exercising freedom of religion or belief

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

Just before Azerbaijan increased penalties for exercising the internationally-recognised right to freedom of religion or belief, six Jehovah's Witnesses were punished in Gyanja for exercising their human rights. Under the Code of Administrative Offences, three were fined, one was warned and two – both Georgians – were deported, Jehovah's Witnesses told Forum 18 News Service. Had they been fined ten days later, they would have faced far higher penalties. Amendments to increase fines under two Articles of the Administrative Code that create offences for exercising freedom of religion or belief – Article 299 and Article 300 - were signed into law by President Ilham Aliyev on 29 December 2010. "These Articles punish what can be considered as normal religious activity," Eldar Zeynalov, head of the Human Rights Centre of Azerbaijan, told Forum 18. He said that the increased fines are "massive", and those fined, especially those without access to higher-paid work, will struggle to pay them. Zeynalov also warned that finding defence lawyers for those accused could be difficult.

Ten days before penalties for exercising the internationally-recognised right to freedom of religion or belief were increased, six Jehovah's Witnesses were punished in Azerbaijan's second city Gyanja [Ganca] under two articles of the Code of Administrative Offences for exercising their human rights. Three were fined, one was warned and two – both Georgian citizens – were deported, Jehovah's Witnesses told Forum 18 News Service. Had the three been fined ten days later, they would have faced far higher penalties. Amendments to increase fines under two Articles of the Code of Administrative Offences that create offences for exercising freedom of religion or belief – Article 299 and Article 300 - were signed into law by President Ilham Aliyev on 29 December 2010.

Those who conduct unregistered religious worship, hold religious worship at a venue that does not have state approval, distribute religious literature that has not passed through compulsory government religious censorship and foreigners who speak of their faith to others now face sharply increased fines. All these "offences" directly contravene Azerbaijan's international human rights obligations.

"These Articles punish what can be considered as normal religious activity," Eldar Zeynalov, head of the Baku-based Human Rights Centre of Azerbaijan in the country's capital, told Forum 18 from Baku on 6 January 2011. "Any religious activity however small-scale – such as meeting for worship in a private flat, talking about one's faith on the street, or handing out a book or even a leaflet – is subject to prosecution."

"Legal" punishments for freedom of religion or belief

In 2009 new "offences" for exercising the rights to freedom of religion or belief in the human rights standards Azerbaijan has formally committed itself to were introduced. These came in two legislative packages: a package aimed at everyone (see F18News 3 June 2009 http://www.forum18.org/Archive.php?article_id=1305); and a package aimed specifically at Muslims (see F18News 22 July 2009 http://www.forum18.org/Archive.php?article_id=1330). Part of the first package were changes to Articles 299 and 300 of the Administrative Code, as well as other articles of the Criminal and Administrative Codes.

Administrative Code Article 299 punishes "violation of the procedure for creating or running religious organisations":

Article 299.0.1 punishes religious leaders who fail to register their communities with the state.

Article 299.0.2 punishes violating state procedures for holding religious meetings or events.

Article 299.0.3 punishes holding special religious meetings for children and young people, as well as the holding by religious bodies of literature circles or other specialised groups.

Article 299.0.4 punishes religious activity at an address other than a religious organisation's registered address.

Article 299.0.5 punishes activity by a religious organisation that is not in accordance with its statute.

Administrative Code Article 300 punishes "violation of legislation on freedom of religion":

Article 300.0.1 punishes producing, importing or exporting religious literature, religious objects, and other information material without permission from the State Committee for Work with Religious Organisations.

Article 300.0.2 punishes circulating religious literature, religious objects and information material without State Committee permission.

Article 300.0.3 punishes selling religious literature, religious objects and information material in places not approved by the State Committee for the sale of such religious material. Those found guilty - in addition to being fined - have such material confiscated.

Article 300.0.4 punishes "religious propaganda" by foreigners or people without citizenship.

The wording of these Articles often does not specify exactly what activities are covered by these "offences".

Already harsh censorship regime

Under Azerbaijan's system of censorship of religious literature, all religious literature produced or sold in the country or imported into it needs permission from the State Committee for Work with Religious Organisations. Penalties for breaking the repressive censorship regime were further tightened in 2009 (see F18News 3 June 2009 http://www.forum18.org/Archive.php?article_id=1305).

Even before the 2009 changes, Azerbaijan's censorship regime was already extremely restrictive (see F18News 6 August 2008 http://www.forum18.org/Archive.php?article_id=1168). The operation of the censorship regime had been further harshened earlier in 2009 (see F18News 24 February 2009 http://www.forum18.org/Archive.php?article_id=1259).

Religious books are often confiscated in raids on private homes, as happened to one reader of the works of the Muslim theologian Said Nursi, Suleiman Mamedov, in the village of Bayandur in western Azerbaijan in May 2010 (see F18News 27 May 2010 http://www.forum18.org/Archive.php?article_id=1451).

Newly increased fines

The December 2010 amendments raised fines for all "offences" under Article 299:

- for individuals to 1,500 Manats (11,550 Norwegian Kroner, 1,435 Euros, or 1,875 US Dollars) to 2,000 Manats (15,400 Norwegian Kroner, 1,915 Euros, or 2,500 US Dollars);

- and for officials to 7,000 Manats (53,300 Norwegian Kroner, 6,700 Euros, or 8,700 US Dollars) to 8,000 Manats (60,000 Norwegian Kroner, 7,700 Euros, or 10,000 US Dollars).

These increases are up to 16 times more than the previous penalties.

The latest amendments also raised fines for all "offences" under Article 300:

- for individuals, whether Azeri citizens or foreigners, to 2,000 Manats (15,400 Norwegian Kroner, 1,915 Euros, or 2,500 US Dollars) to 2,500 Manats (18,600 Norwegian Kroner, 2,400 Euros, or 3,100 US Dollars);

- for officials to 8,000 Manats (60,000 Norwegian Kroner, 7,700 Euros, or 10,000 US Dollars) to 9,000 Manats (67,200 Norwegian Kroner, 8,700 Euros, or 11,200 US Dollars);

- and for organisations to 20,000 Manats (154,000 Norwegian Kroner, 19,150 Euros, or 25,000 US Dollars) to 25,000 Manats (186,000 Norwegian Kroner, 24,000 Euros, or 31,000 US Dollars).

These increases are up to 20 times more than the previous penalties.

Those found guilty under Article 300 will continue to have their religious literature confiscated. Foreigners involved in "religious propaganda" will continue to face deportation.

"Not very pleasant news"

Some religious leaders and human rights defenders expressed concern about these increases in penalties even before the Milli Mejlis

had approved them (see F18News 10 December 2010 http://www.forum18.org/Archive.php?article_id=1520).

Since their adoption, concerns continue to be expressed. One religious believer, many of whose colleagues have been punished for their religious activity, described the increased fines to Forum 18 in late December as "not very pleasant news".

Fines are "massive"

As many – possibly the majority – of Azerbaijan's religious communities have not been able to gain the compulsory state registration with the State Committee for Work with Religious Organisations, use of these Articles could increase. Unregistered communities facing such possible penalties include all Muslim communities not subordinated to the state-backed Caucasian Muslim Board, as well as all Catholic, Baptist, Seventh-day Adventist, Jehovah's Witness and many Protestant communities (see F18News 10 December 2010 http://www.forum18.org/Archive.php?article_id=1520).

Zeynalov of the Human Rights Centre of Azerbaijan stated that the newly increased fines are "massive". Those fined, especially rural residents without access to higher-paid work in Baku, will struggle to pay such fines. "If for example, five members of one rural family were each fined 2,000 Manats, that would make a total of 10,000 Manats [77,000 Norwegian Kroner, 9,575 Euros or 12,500 US Dollars]. This would represent the entire value of the family's assets, including their home."

Amendments in 2009 to Article 299 and Article 300 of the Code of Administrative Offences widened the number of religious activities that became punishable and increased the penalties that already existed. The amendments came amid wide-ranging changes to laws – including the Religion Law and the Criminal Code – which imposed new state controls on religious activity (see F18News 3 June 2009 http://www.forum18.org/Archive.php?article_id=1305).

Parliamentary and Presidential approval

The draft Law to further increase the penalties under Article 299 and Article 300 were introduced into Parliament, the Milli Mejlis, without prior public announcement. The proposed amendments were approved on 8 December 2010 at a joint meeting of the Milli Mejlis Legal Policy and State Building Committee and the Human Rights Committee.

Ali Huseynov, Chair of the Legal Policy and State Building Committee, told Forum 18 on 10 December that parliament would not be seeking expert assistance in reviewing the proposed amendments from the Venice Commission of the Council of Europe or the Organisation for Security and Co-operation in Europe (OSCE) (see F18News 10 December 2010 http://www.forum18.org/Archive.php?article_id=1520).

The full Milli Mejlis approved the amendments on 21 December 2010, parliament's website noted. President Aliyev signed the amendments into law on 29 December, and the text was finally made public on government websites – including the Presidential website - the same day.

Why the increased fines?

Zeynalov of the Human Rights Centre attributes the increase in fines to "the general trend to strengthen restrictions on the activity of unregistered religious organisations". "Bigger fines increase the incentive for the authorities locally to persecute unregistered religious groups," he told Forum 18.

He adds that the government appears to be motivated by a fear of Islamic radicalism. "This danger is in some ways real, but I believe it should be tackled in a different way. Using administrative punishments has not worked in Central Asia and is not going to work here."

Finding a defence lawyer willing to represent individuals accused under these Articles will be difficult, especially in rural areas, Zeynalov warns. "There is often just one lawyer for an entire region with a population of more than 100,000 people."

Gyanja raid

On the morning of 18 December 2010, several police officers and the local representative of the State Committee for Work with Religious Organisations, Firdovsi Kerimov, forced their way into the private home in Nizami District of the north-western city of Gyanja where Jehovah's Witnesses were meeting for worship, the Interior Ministry noted on its website later that day.

Jehovah's Witnesses told Forum 18 that all the approximately 50 people present were taken to the District Police Station. Although the majority were released after several hours, six remained in detention. They included the owner of the home where the meeting was held, Yegana Gahramanova, and Saladdin Mammadov, Rashad Niftaliyev, and Teymur Valiev. Vepkhvia and Ekaterine Sheveli, a married couple from neighbouring Georgia who were visiting friends in Gyanja, were also detained.

Agahuseyn Mammadov, head of Nizami District Police whose officers raided the 18 December 2010 worship service, insisted to

Forum 18 from Gyanja on 6 January 2011 that "it was not a raid". However, he refused to say how he would describe it, or why police broke up a worship service and detained all those present. "I won't explain anything to you," he told Forum 18 and put the phone down.

Reached on 7 January, religious affairs official Kerimov put the phone down as soon as Forum 18 introduced itself.

The raid on the Jehovah's Witness service came exactly one week after more than 15 police officers, as well as journalists with a video camera and a state religious affairs official, raided the Saturday morning worship service of the Seventh-day Adventist congregation in Sumgait. Two church members were subsequently fined under the same two Articles of the Code of Administrative Offences (see F18News 16 December 2010 http://www.forum18.org/Archive.php?article_id=1522).

Gyanja fines

All six detainees were taken to Nizami District Court, where late that evening Judge Vahid Sadigov convicted the four local Jehovah's Witnesses under Article 299.0.2 ('violating state procedures for holding religious meetings'), 299.0.3 ('holding special religious meetings for children') and 299.0.4 ('religious activity at an address other than a religious organisation's registered address') of the Code of Administrative Offences. Two of the four were fined 150 Manats (1,121 Norwegian Kroner, 145 Euros or 188 US Dollars), one was fined 100 Manats (747 Norwegian Kroner, 97 Euros or 125 US Dollars), and one was given an official warning.

While many Jehovah's Witnesses have been fined in Azerbaijan for sharing their faith with others and offering their literature on the streets, and several Jehovah's Witnesses who are foreign citizens have also been deported for this, Jehovah's Witnesses told Forum 18 that the fines on the three in Gyanja represent the first time Jehovah's Witnesses who are citizens of Azerbaijan have been fined simply for attending a meeting for worship.

Jehovah's Witnesses insisted to Forum 18 that the convictions "believe Azerbaijan's claims of religious tolerance" and contradict Article 21 of the Religion Law, which guarantees the right to practice one's religious beliefs not only in "places of worship" but also "in apartments and houses of citizens".

They also point to a January 2007 European Court of Human Rights decision in the case of Kuznetsov and others v. Russia (Application no. 184/02) that held that the "collective study and discussion of religious texts by the members of the religious group of Jehovah's Witnesses [is] a recognised form of manifestation of their religion in worship and teaching," a right guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms (see <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=812677&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>).

Gyanja deportations

In the early hours of Sunday 19 December, soon after the first four Jehovah's Witnesses were convicted, Nizami District Court then convicted the visiting Georgians Vepkhvia and Ekaterine Sheveli of violating Article 300.0.4 of the Code of Administrative Offences, which prohibits foreigners from conducting "religious propaganda". Jehovah's Witnesses complain that this term "is not defined anywhere in Azerbaijani legislation". The Court ordered that the couple be deported from Azerbaijan to Georgia. After having been detained for nearly 48 hours, the two were then deported by car, although no deportation stamps were placed in their passports.

On 28 December, all six Jehovah's Witnesses lodged appeals at Gyanja Appeal Court. No date has yet been set for the appeal hearing, Jehovah's Witnesses told Forum 18.

"Jehovah's Witnesses have been gathering for many years in Gyanja in order to study the Holy Scriptures, exactly as Jehovah's Witnesses do in all free and democratic countries around the world," Niftaliyev wrote. "I ask the respected Gyanja Appeal Court please to vindicate my rights to freedom of worship and the freedom to gather with my fellow believers."

Among religious believers deported for practising their faith in Azerbaijan in recent years – which include Muslims, Protestants and Jehovah's Witnesses - were a number of long-term residents who had foreign passports. Baptist Javid Shingarov (who holds a Russian passport) was cut off from his wife, father and children in his native village near Yalama in northern Azerbaijan when he was deported to Russia in September 2009 (see F18News 1 October 2009 http://www.forum18.org/Archive.php?article_id=1357). (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1192.

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.

A printer-friendly map of Azerbaijan is available at <http://www.nationalgeographic.com/xpeditions/atlas/index.html?Parent=asia&Rootmap=azerba>.

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY