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NAGORNO-KARABAKH: Conscientious objector "a criminal who must pay the price for his crime"

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

A court in the unrecognised entity of Nagorno-Karabakh in the South Caucasus sentenced 19-year-old Jehovah's Witness conscientious objector Artur Avanesyan to 30 months' imprisonment for refusing compulsory military service, according to the verdict seen by Forum 18 News Service. He awaits his 18 November appeal court hearing in prison in Shusha. "Every man must defend his home," Karabakh's Human Rights Ombudsperson Yuri Hairapetyan insisted to Forum 18. "He's a criminal who must pay the price for his crime." A prison official told Forum 18 Avanesyan can receive visits from relatives and read the Bible. Jehovah's Witnesses insist Avanesyan's 14 July arrest in Armenia, where he had applied for alternative civilian service, and transfer back to Karabakh was illegal. Armenian police spokesperson Haykuhi Babajanyan said that if an individual is wanted by police in Karabakh, Armenia would hand them over. "If what was done to Avanesyan was illegal, an investigation would prove that," she told Forum 18.

Eleven weeks after what fellow Jehovah's Witnesses insist was his "illegal" arrest in the Armenian capital Yerevan and transfer to the unrecognised entity of Nagorno-Karabakh, a Karabakh court sentenced Artur Avanesyan to 30 months' imprisonment for refusing compulsory military service on religious grounds, Forum 18 News Service has learnt. He lodged an appeal with Karabakh's Appeal Court on 22 October and is in prison as he awaits the 18 November appeal hearing.

Karabakh's Human Rights Ombudsperson is unsympathetic. "Every man must defend his home," Yuri Hairapetyan told Forum 18 from Karabakh's capital Stepanakert on 7 November. "He's a criminal who must pay the price for his crime."

Hairapetyan added that Jehovah's Witness representatives – including Avanesyan's lawyer – had visited him to urge him to take up the case. "But the Ombudsperson of no country can call for a change to a court decision," he insisted to Forum 18. "It's not clear what else I should do."

No civilian alternative service in Nagorno-Karabakh

The 1994 ceasefire that ended the fighting between ethnic Armenian and Azerbaijani forces left Nagorno-Karabakh's status unresolved. This makes military service a sensitive issue for Karabakh's ethnic Armenian authorities. Nagorno-Karabakh allows young men no alternative to the compulsory two-year military service, and has imprisoned previous conscientious objectors.

The unrecognised entity's Constitution – adopted by referendum in December 2006 – requires all citizens to take part in defence and made no provision for an alternative non-military service (see F18News 9 November 2006 http://www.forum18.org/Archive.php?article_id=866).

Human Rights Ombudsperson Hairapetyan claimed to Forum 18 that introducing a civilian alternative to military service is impossible as long as Karabakh is in a military state. "When we have civilian rule here we will have alternative service," he said. He noted that Karabakh's armed forces allow individuals to perform their military service in a non-combat role if they wish.

However, any involvement in military structures is unacceptable for many conscientious objectors.

Asked who would suffer if Avanesyan and other conscientious objectors were allowed to perform a civilian alternative service, for example in a hospital, as in neighbouring Armenia, Hairapetyan responded: "Were we to allow alternative service, many young men – Jehovah's Witnesses and others – might want to do it."

Legal amendments in Armenia in 2013 finally introduced a fully civilian alternative to military service, after the imprisonment of more than 450 individuals over two decades for refusing military service on grounds of conscience (see F18News 28 November 2013 http://www.forum18.org/archive.php?article_id=1901).

Imprisonments

One of the options to prosecute those who refuse Karabakh's compulsory military service is Criminal Code Article 347, Part 1. This reads: "Evasion from regular military or alternative service call-up, training exercise or mobilisation, without any order defined by Legislation as grounds for exemption, is punished with arrest for a maximum term of two months, or imprisonment for a maximum term of three years."

Karabakh's new Criminal Code was signed into law by the unrecognised entity's president Bako Sahakyan on 23 May 2013 and entered into force on 1 July 2013. Article 347, Part 1 replaced Article 327, Part 1 in the previous Code, which was earlier generally used to punish conscientious objectors.

The most recent imprisoned conscientious objector was fellow Jehovah's Witness Karen Harutyunyan. He was freed from prison in Shusha on 30 May after completing a 30-month prison sentence handed down in December 2011 under the then Criminal Code Article 327, Part 1 (see F18News 17 January 2012 http://www.forum18.org/archive.php?article_id=1656).

Baptist and Jehovah's Witness conscientious objectors had earlier served prison terms in Karabakh, sometimes under other Criminal Code Articles (see F18News 1 July 2010 http://www.forum18.org/Archive.php?article_id=1463).

Alternative civilian service attempted

On 29 January, Davit Aramyan of Askeran City Military Conscription Office summoned Avanesyan to report for military service. The following day, Avanesyan submitted an application to perform alternative civilian service in lieu of military service. He insisted that he is an Armenian citizen and he wished to perform alternative civilian service under the terms of Armenian law. When Avanesyan did not appear for military service on 31 January, Aramyan phoned his mother, Svetlana Avanesyan. She told him her son was now in Armenia.

Avanesyan's lawyer met officials both in Nagorno-Karabakh and Armenia and "made some progress toward allowing Avanesyan to perform alternative civilian service in Armenia", Jehovah's Witnesses told Forum 18.

Following his move to Armenia and anticipating a positive resolution, Avanesyan applied for alternative civilian service on 13 February with the Military Conscription Office in the town of Masis near Yerevan.

While hoping to appear before Armenia's alternative service board, Avanesyan was instead summoned on 14 July to report that day to Yerevan's Central District Police Station. When he arrived at the station, police from Nagorno-Karabakh were waiting for him. They arrested him and took him to Nagorno-Karabakh. The next day, he was placed in pre-trial detention and brought before Mardakert Court.

Unknown to Avanesyan, Askeran Regional Prosecutor's Office had opened a criminal case against him on 17 February under Article 347, Part 1. On 14 March the court had ordered two-months of pre-trial detention to start from the moment of his arrest. At the 15 July hearing, Avanesyan was immediately imprisoned. The court rejected all appeals against his pre-trial detention.

30-month prison sentence

Avanesyan's trial began at Mardakert Court on 22 August. At the second hearing on 30 September, Judge Spartak Grigoryan rejected Avanesyan's insistence that he was innocent of any crime and sentenced him to 30 months' imprisonment under Criminal Code Article 347, Part 1, according to the verdict seen by Forum 18. The sentence was to run from the date of his arrest, 14 July.

The sentence was handed down exactly two weeks after Avanesyan's 19th birthday.

Forum 18 was unable to reach Prosecutor Aspram Avanesyan (no relation), who led the case in court. The telephone of Askeran Regional Prosecutor's Office went unanswered on 10 November. Similarly unanswered was the telephone of the press office of Karabakh's General Prosecutor's Office in Stepanakert.

Was Yerevan arrest legal?

Jehovah's Witnesses insisted to Forum 18 that Avanesyan's arrest by Nagorno-Karabakh police at Yerevan's Central District Police Station and immediate deportation to Karabakh was illegal. Curiously, the verdict identifies the date of arrest as 14 July but gives no location for the arrest.

Haykuhi Babajanyan, spokesperson for Armenia's Police, said she was not familiar with Avanesyan's case, but insisted that Armenia and Karabakh are "very close partners" who respect each other's demanded for wanted people to be handed over. "We have a lot of such cases from Karabakh," she told Forum 18 from Yerevan on 10 November.

Told that Avanesyan is an Armenian citizen and has an Armenian passport (of which Forum 18 has seen a copy), and does not

appear to have broken any Armenian law, Babajanyan agreed. But she repeated that if an individual is wanted by police in Karabakh, Armenia would hand them over. "If what was done to Avanesyan was illegal, an investigation would prove that," she told Forum 18.

The duty officer at Yerevan City Police said he did not have information about Avanesyan's case, referring Forum 18 to Yerevan's Central District Police.

Garik Gukasyan, acting head of Yerevan's Central District Police, confirmed Avanesyan's July arrest at the police station, but referred Forum 18 on 10 November to Central District Investigative Department. Asked if Karabakh police officers often arrest people at his Yerevan police station, Gukasyan refused to answer what he termed a "provocative question".

The telephone of Vigen Mesropyan, head of Central District Investigative Department, went unanswered each time Forum 18 called on 10 November.

Asked whether it was legal for Karabakh police to have arrested Avanesyan, an Armenian citizen, in Armenia and brought him back for trial in Karabakh, Human Rights Ombudsperson Hairapetyan was adamant. "Avanesyan is a Nagorno-Karabakh citizen," he told Forum 18. "We issue Armenian passports for foreign travel, but the court confirmed he is a Nagorno-Karabakh citizen." He insisted that as Avanesyan had "hidden" in Armenia, Karabakh's police were justified in forcibly returning him for trial.

Prison conditions "OK"

Avanesyan is now being held in Karabakh's prison in the hilltop town of Shusha, near Stepanakert. Forum 18 was unable to reach prison director Mher Pogosyan on 7 November. However, duty officer Levon Babayan insisted to Forum 18 that day that Avanesyan's conditions are "OK". He said he is in good health, can meet relatives in accordance with the regulations and has access to the Bible. "That's his right," Babayan noted.

Babayan recalled the previous conscientious objectors held in the prison, but said Avanesyan is the only conscientious objector currently in the prison. Forum 18 is not aware of other imprisoned conscientious objectors in Karabakh at present.

Jehovah's Witnesses confirmed to Forum 18 that Avanesyan's health is good, he can receive visits from relatives and has access to the Bible.

Human Rights Ombudsperson Hairapetyan told Forum 18 he has met Avanesyan in prison several times and discussed "medical and other issues" with the prison director. "Avanesyan has no complaints about the conditions there," Hairapetyan told Forum 18.

Avanesyan's prison address:

Nagorno-Karabakh

Shushi

Shushi prison

Lalayan 2

(END)

Further coverage of freedom of thought, conscience and belief in the unrecognised entity of Nagorno-Karabakh is at <http://www.forum18.org/Archive.php?query=&religion=all&country=22>.

A personal commentary, by Derek Brett of Conscience and Peace Tax International, on conscientious objection to military service and international law in the light of the European Court of Human Rights' July 2011 Bayatyan judgment is at http://www.forum18.org/Archive.php?article_id=1597.

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