

PUBLIC

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Prisoner of conscience/ Fear of torture or ill-treatment

18 May 2006

AZERBAIJAN Mushviq Mammedov (m)

Mushviq Mammedov was detained on charges of evading the draft for military service on 28 April. As a Jehovah's Witness for six years, his religious beliefs prohibit him from performing military service. He is currently detained in Bayil Prison, Baku, where he may be at risk of torture or other ill-treatment. Amnesty International considers Mushviq Mammedov to be a prisoner of conscience, detained solely because of the peaceful exercise of his religious beliefs.

Mushviq Mammedov began to receive telephone calls from the Sabail District Military Commissariat when he finished university in 2005, calling for him to present himself for the military draft. In mid-July 2005 he sent a letter to the Sabail Commissariat and Republican Military Commissariat stating his religious beliefs, and also his willingness to fulfil alternative, civilian service as provided for in Azerbaijani law. His mother also delivered a copy of this letter in person to the relevant authorities. Following this, the Military Commissariat made no further contact with Mushviq Mammedov until his arrest on 28 April 2006.

Following his arrest Mushviq Mammedov again refused to present himself for the military draft or to submit to a medical examination as part of the procedure. The following day on 29 April, a judge from Sabail District Court approved his arrest for draft evasion under Article 321.1 of the Azerbaijani Criminal Code, punishable by imprisonment of up to three years. On 8 May, Mushviq Mammedov appealed against the decision to arrest him. Although the appeal hearing was officially a public one, his relatives and representatives of the Jehovah's Witnesses were reportedly removed from the court hall. The Court rejected the appeal. Mushviq Mammedov may now be subjected to torture or ill-treatment in detention as a so-called 'deserter'. So-called 'deserters' face particular hostility in Azerbaijan as a country that is still formally at war with neighbouring Armenia.

BACKGROUND INFORMATION

The right to conscientious objection to military service proceeds from the right to freedom of thought, conscience and religion, enshrined in Article 18 of the International Covenant on Civil and Political Rights and Article 9 of the European Convention on Human Rights, both treaties to which Azerbaijan is a State Party. Yet since independence in 1991 Azerbaijan has not provided for this right to be enjoyed in practice.

The establishment of an alternative civilian service was also one of the obligations undertaken by Azerbaijan when it joined the Council of Europe in 2001. Azerbaijan undertook to create a legal framework for alternative civilian service by January 2004, yet to date no such law has been adopted. Nonetheless, through a constitutional amendment introduced in August 2002 the Azerbaijani Constitution provides for the option of alternative civilian service (Article 76) for all those whose convictions do not permit them to undertake military service. Mushviq Mammedov appealed on the basis of this legal provision in his letter to the Sabail and Republican Military Commissariats in July 2005.

In spite of this constitutional amendment, however, the Azerbaijani courts have a record of ruling in favour of the military authorities in cases of conscientious objection. In February 2005 Azerbaijan's Supreme Court ruled against the right of another Jehovah's Witness, Mahir Bagirov, to conscientious objection. In a report prepared by British barrister Richard Daniel, who took up Mahir Bagirov's case, it is noted that at Bagirov's trial the Military Commissariat advanced a definition of the legal term 'minister of religion' taking in only recognized religions or trainee priests in recognized seminaries. This definition would effectively exclude all members of non-traditional religions in Azerbaijan, who are nonetheless entitled to the right of conscientious objection. Mahir Bagirov's case is now being prepared for application to the European Court of Human

Rights (ECHR), which in recent judgments on this issue has upheld complaints of conscientious objectors (for instance in the case of conscientious objector Osman Murat Ulke v. Turkey in January 2006).

Although the Jehovah's Witnesses were registered in Azerbaijan in December 1999, the organization claims to have been regularly harassed by the authorities, including having its meetings disrupted and its members being physically assaulted.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in Azerbaijani, Turkish, English or your own language:

- expressing concern for the safety of Mushviq Mammedov who is currently detained in Bayil Prison, Baku, where he may be at risk of torture or other ill-treatment;
- seeking assurances that he is not being tortured or ill-treated;
- calling on authorities to release Mushviq Mammedov immediately as he is a prisoner of conscience, detained solely because of the peaceful exercise of his religious beliefs;
- pointing out that the denial of an alternative civilian service for conscientious objectors is a violation of Azerbaijan's obligations under the International Covenant on Civil and Political Rights and the European Convention on Human Rights;
- calling upon the Azerbaijani authorities to provide an appropriate legal and institutional framework for alternative civilian service as soon as possible;
- reminding the authorities of their obligations to uphold freedoms of conscience and religious belief.

APPEALS TO:

Minister of National Security

Lt.-Gen. Eldar Mahmudov
Ministry of National Security of Azerbaijan
Parliament Avenue 2
Baku, Azerbaijan
Fax: + 994 12 492 5079
Salutation: Dear Minister

President

President Ilham Aliyev
Office of the President of the Azerbaijan Republic
19 Istiqlaliyyat Street
Baku AZ1066 Azerbaijan
Fax: + 994 12 492 0625
Email: president@gov.az
Salutation: Dear President

Minister of Internal Affairs

Lt.-Gen. Ramil Usubov
Ministry of Internal Affairs
Husu Hajiyev Street 7, 370005 Baku, Azerbaijan
Fax: + 994 12 92 45 90
Salutation: Dear Minister

Procurator General

Zakir Qaralov
Respublikanskaya Prokuratura
Rafibeyli Street 7
Baku 370001, Azerbaijan
Fax: + 994 12 492 32 30 (if someone answer ask for a fax tone)
Salutation: Dear Procurator General

COPIES TO:

Ombudsman

Prof. Elmira Suleymanova
Ombudsman

40 Uz. Hajibeyov Street
AZ1000 Baku, Azerbaijan

Fax: +994 12 498 85 74

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and to diplomatic representatives of Azerbaijan accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 28 June 2006.