

## **Jehovah's Witnesses defend their rights to freedom of religion at the OSCE/ ODIHR**

**HRWF (22.09.2016) – At the Human Dimension Implementation Meeting of the OSCE/ ODIHR in Warsaw, the European Association of Jehovah's Christian Witnesses has presented a detailed report of their situation in Azerbaijan and has tried to open a constructive dialogue with the delegation of Azerbaijan in order to solve a number of concrete issues related to the legal practice of their religion in the country. Below, the almost entire paper registered and uploaded on the website of the OSCE (<http://www.osce.org/odihr/266226>).**

Azerbaijan severely restricts the religious activity of Jehovah's Witnesses and has imposed fines totalling AZN 83,000 (EUR 46, 757) on individuals in the past year for practising their faith.

The unrelenting abuses of religious freedom rights have prompted Jehovah's Witnesses to seek relief by submitting 22 applications to the European Court of Human Rights (ECHR) since 2007, as well as 4 complaints to the UN Human Rights Committee (CCPR). The issues of concern, as described below, include disruption of religious services, interference with publicly manifesting belief, denial of registration, and denial of the right to conscientious objection.

Since 2007, 22 applications have been submitted to the European Court:

Police raid: 6  
Re-registration: 1  
Manifesting religious beliefs: 3  
Censorship: 5  
Deportation: 3  
Conscientious objection: 4

Since 2015, 4 complaints have been submitted to the CCPR.

### ***Legal Recognition Withheld***

In compliance with the May 2009 amendments to the Law on Freedom of Religious Beliefs, the Religious Community of Jehovah's Witnesses in Baku applied for reregistration prior to the deadline in January 2010. Since then, the State Committee for Work With Religious Associations (SCWRA) has refused reregistration on technicalities, leaving the Community without full legal status.

The Community's current legal status remains uncertain, and the SCWRA excludes Jehovah's Witnesses from the list of registered religious associations posted on its official website, <http://www.scwra.gov.az/pages/96>. This contradicts the statements to the CCPR by Azerbaijan on 14 July 2016: "The registration procedure is quite simple. The applicant is required to present a few documents that are determined under the legislation and they are easy to collect. Religious communities are denied of registration only on legal grounds." The reply of Azerbaijan claimed that "Jehovah's Witnesses ... operate freely and are officially registered without facing any obstacles."—Paragraphs 146, 152.

### **Ganja.**

For more than five years, the SCWRA has refused to grant Jehovah's Witnesses registration in Ganja. On 8 June 2011, the Ganja Religious Community applied for registration. The SCWRA has never issued a decision on that application. The Community filed a new application on **1 September 2015**, upon which the SCWRA informed the Community that its application had technical flaws.

On **21 September**, the Community filed corrected documents. On **23 October**, the SCWRA informed the Community of more alleged technical flaws. On **10 November**, a new application was submitted. Again, on **15 March** and **16 May 2016**, the Community corrected supposed technical flaws. On **3 August 2016**, well beyond the legal deadline of 40 days for determination of applications, the SCWRA once more failed to register Jehovah's Witnesses in Ganja, disingenuously claiming that administrative liability findings against founder members contradict the Community's charter. These findings are related to the members' exercising the very constitutional rights and Convention-protected freedoms that they have been seeking to enjoy as a registered community since 2011.

### ***Harassment by Officials and Interference With Religious Services Heavy Fines Imposed***

#### **(1) Gakh.**

**On 23 March 2016**, police officers abruptly terminated the observance of the Memorial of Christ's death—the most sacred religious event of the year for Jehovah's Witnesses—which was being conducted in a private home. Police officers showed what purported to be a court order authorizing their search and confiscated personal copies of religious publications, including Bibles. Officers then took all of the attendees to the local police division, interrogated them, and ordered them to write statements. All attendees were released about 9:10 p.m., after police drew up protocols of Administrative Violations on six of the men.

**In early May 2016**, police charged 34 individuals under Article 515.0.4 of the Administrative Violations Code for "a religious association acting outside its registered legal address." On 24 and 27 May, Gakh District Court Judge Atabay Kichibayov acquitted 27 of them.

The police appealed against all 27 acquittals. Between **28 July and 1 August**, the Shaki Court of Appeal reversed 26 of the acquittals and imposed convictions and fines of AZN 1,500 (EUR 845) each; Givi Khutsishvili was fined AZN 1,800 (EUR 1,014). On **4 August 2016**, in light of the Court of Appeal's reversals, Judge Kichibayov fined the remaining seven individuals AZN 1,500 (EUR 845) each.

#### **(2) Sahil Settlement, Baku.**

**On 17 January 2016**, police officers burst into the home of Marina Asadova and abruptly interrupted a meeting for worship. The officers did not allow the meeting to continue and took Ms Asadova to the local police station. Once the officers verified that the religious publications under discussion were labelled with SCWRA control stamps, they returned Ms Asadova home. The police recorded information about all of the Witnesses visiting the home and released them. The police warned that such meetings must not be held in Ms Asadova's home again.

#### **(3) Mingachevir.**

**On 9 January 2016**, police officers abruptly stopped a peaceful religious service held in the private home of Eldar Aliyev. The officers forced entry and declared that the meeting was unlawful and that a permit was required for such meetings. Representatives of the Executive Authority, the municipality, and the SCWRA participated in the raid. Officers confiscated the attendees' personal copies of religious publications, including Bibles, stating that the Bible is a banned publication. Afterward, the police took all attendees to the

Mingachevir Police Station, where officers questioned them, ordered them to write statements, and held them until 10:30 p.m.

**On 8 February 2016**, Eldar Aliyev and three others filed a lawsuit against the Mingachevir City Police Department, seeking compensation for the violation of their rights and freedoms.

**On 27 April 2016**, Shaki Administrative-Economic Court Judge Kanan Valiyev ruled the lawsuit inadmissible on the basis that it should have been commenced in the District Court instead of the Administrative Court.

**On 22 June 2016**, the Shaki Court of Appeal partially satisfied the claimants' appeal and returned the case to the lower court.

Meanwhile, **on 3 March 2016**, Mingachevir City Court Judge Huseyn Mirzaliyev convicted Eldar Aliyev under Article 515.0.2 of the Administrative Violations Code and imposed a fine of AZN 1,500 (EUR 845).

**On 22 April 2016**, Shaki Court of Appeal Judge Mirbahaddin Huseynov upheld the conviction and fine.

#### **(4) Ganja.**

**On 14 November 2015**, without showing a warrant or a court order, police officer then took all who attended the religious service to the Kapaz District Police Station. There, reporters from various TV channels filmed and broadcast news stories about them. The Witnesses were interrogated, ordered to write statements, and held without food or drink at the police station until 3:00 a.m. the following morning.

**Between 18 and 26 November**, Ganja Kapaz District Court Judge Yashar Hashimov fined 12 of the Witnesses AZN 2,000 (EUR 1,127) each – a total sum of AZN 24,000 (EUR 13,524).

**In December 2015**, the Ganja Court of Appeal dismissed all of the Witnesses' appeals.

### ***Interference With Manifestation of Belief***

The Law on Freedom of Religious Beliefs (Article 12) confines the activity of religious associations to their registered legal address. This provision contradicts the European Convention on Human Rights, which recognizes the right to manifest religious belief in democratic societies. In addition, Azerbaijan law prohibits "foreigners and persons without citizenship ... from participating in religious propaganda." In December 2015, the Criminal Code was amended to stiffen penalties for foreigners who engage in "religious propaganda"—imprisonment for one to two years and up to five years of imprisonment in cases involving a prior arraignment or a repeated violation. Between January and August 2016, Jehovah's Witnesses reported 14 cases of police interference with their manifestation of belief—sharing a Bible message in public. Typically, police officers stop the activity of the Witnesses, bring them to the police station, verbally abuse them, and threaten them with administrative charges and heavy fines. In three cases, charges were made but later dismissed in court. The reported incidents occurred in Baku.

### ***Denial of Right to Conscientious Objection to Military Service***

Although a signatory to the European Convention on Human Rights (since 2001), Azerbaijan has ignored the ECHR judgements in Case of Erçep v. Turkey and Case of Buldu and Others v. Turkey and the Bayatyan v. Armenia judgement of the Grand Chamber, which recognized the right of religiously motivated conscientious objection to military service as fully protected under Article 9 of the European Convention. Despite having informed the CCPR on

14 July 2016 that “alternative service is an option provided by the law,” Azerbaijan has no provision for alternative civilian service.

(1) Daniel Khutsishivili (2016) is threatened with criminal prosecution for conscientiously objecting to military service. When he explained his religious beliefs and requested alternative service, the State Service for Mobilization and Conscription (SSMC) informed him that though the constitution provides the right to alternative service in Article 76, no law exists to implement it.

(2) Kamran Mirzayev (2013) was criminally convicted and imprisoned for nine months. The SSMC informed him that the law for alternative service is not in force. He has submitted an application to the ECHR.

(3) Fahkraddin Mirzayev (2012) was criminally convicted and imprisoned for one year. After serving nine months’ imprisonment, he was released on the basis of an amnesty. He has submitted an application to the ECHR.

(4) Farid Mammedov (2010) was criminally convicted and imprisoned for 9 months. He has submitted an application to the ECHR.

### ***State Censorship of Religious Literature***

Azerbaijan law stipulates that religious literature may be imported only with prior permission by the SCWRA. Moreover, each piece of imported literature—whether a book, a DVD, or even a one-page leaflet—must have the SCWRA’s control stamp on it. The cost of a single stamp is AZN 0.02, and it is at the expense of the religious community concerned. This places an additional financial burden on the religious community.

**In April 2016**, the government ran out of control stamps and still has none. As a result, the Religious Community of Jehovah’s Witnesses has imported 84 different publications (98,702 items) without such stamps. The SCWRA has asked the Community not to distribute those publications until control stamps are provided. Individual Witnesses risk arrest and prosecution for possessing or distributing religious literature without a control stamp, even though the SCWRA approved its import.

### ***Positive Developments***

- The SCWRA has not refused import of any new publications of Jehovah’s Witnesses since **November 2015**. At present, while still awaiting the availability of control stamps, Jehovah’s Witnesses do not have any claims in Azerbaijan courts against the SCWRA’s censorship of their religious literature.
- **During 2016**, two peaceful gatherings of more than 1,000 of Jehovah’s Witnesses were conducted successfully in Baku with the knowledge of the SCWRA, and without objection.
- Notwithstanding the ongoing threat to Daniel Khutsishivili, none of Jehovah’s Witnesses is currently imprisoned for conscientious objection to military service.
- **Since April 2016**, Azerbaijan authorities have not interrupted the Witnesses’ meetings for worship. The authorities continue to enforce fines imposed on individual Witnesses for peacefully manifesting their religious beliefs.

### ***Meetings With Officials***

- **On 6 April 2016**, representatives of the European Association of Jehovah’s Christian Witnesses (EAJCW) and a local representative met again with the chairman of the SCWRA, Mr Mubariz Gurbanli. The discussion covered a range of topics, including registration and police raids of meetings. Since the meeting, however, efforts of Jehovah’s Witnesses to

obtain registration in Ganja have been thwarted, and police continue to harass Witnesses for manifesting their religious beliefs.

- **On 14 September 2016**, representatives of the EAJCW and a local representative again met with the chairman of the SCWRA, Mr Mubariz Gurbanli, and his senior colleagues. Several topics were discussed, in particular the 'control stamp' difficulty and the desire of both sides to achieve formal re-registration of Jehovah's Witnesses in Baku as a springboard to alleviating difficulties throughout the country. The SCWRA promised to assist in obtaining speedy re-registration in Baku.

- **On 15 September 2016**, the EAJCW representatives met with Dr Azay Guliyev, Chairman of the Council of State Support to NGOs under the President of the Republic of Azerbaijan and Vice-president of the Parliamentary Assembly of the OSCE. In a frank and open discussion, both parties agreed that the challenges faced by Jehovah's Witnesses are possible to resolve by constructive dialogue in the spirit of mutual understanding.

### ***Religious Freedom Objectives***

**Jehovah's Witnesses respectfully request the government of Azerbaijan to:**

(1) Facilitate full registration of Jehovah's Witnesses in Baku and in other parts of the country

(2) Stop interfering with their worship and manifestation of belief and dismiss all fines levied against them for this peaceful religious activity

(3) Recognize the right to conscientious objection and provide an alternative civilian service programme conforming to international standards

(4) Recognize the right of religious freedom

(5) Allow Jehovah's Witnesses the unhindered use of their religious literature  
Representatives of Jehovah's Witnesses welcome the opportunity to engage in a constructive dialogue with representatives of the Azerbaijan government.