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## **Conscientious objector's two-year jail term**

By Felix Corley

***Forum18 (09.11.2023) - On 25 October, a Yerevan court handed Baptist conscientious objector Davit Nazaretyan a two-year jail sentence for "Avoidance of mandatory military or alternative service or conscription", despite his repeated requests for alternative civilian service. "Of course it's bad, but the law demands it," said religious affairs official Vardan Astsatryan. Nazaretyan plans to appeal, and is at home until it is heard. Multiple officials have not explained to Forum 18 why international human rights obligations to respect the rights of conscientious objectors to military service should not apply in Nazaretyan's case.***

Despite his repeated requests for alternative civilian service, officials of the Conscription Service and of the Alternative Service Commission refused Baptist conscientious objector Davit Nazaretyan's application. On 25 October, Judge Gagik Pogosyan of Yerevan's Kentron District Court handed the 20-year-old a two-year jail term for "Avoidance of mandatory military or alternative service or conscription". He is planning to appeal, and is at home in Yerevan until any appeal is heard.

Armenia's legally-binding international human rights obligations require states to respect the right to conscientiously object to military service as part of the freedom of religion and belief. For example, the United Nations (UN) Working Group on Arbitrary Detention stated in 2022: "States should refrain from imprisoning individuals solely on the basis of their conscientious objection to military service, and should release those that have been so imprisoned."

Various judgments (including against Armenia) of the European Court of Human Rights (ECtHR) in Strasbourg have also defined states' obligations to respect and implement the right to conscientious objection to military service, as part of the right to freedom of religion or belief (see below).

"Davit asked for alternative civilian service," Baptist Pastor Mikhail Shubin – who attended the trial with other Baptists – told Forum 18. "If the law allows this, why didn't they give it to him? If an individual's conscientious views do not allow him to carry weapons or swear the oath, why didn't they give him alternative service?" (see below).

Judge Pogosyan's assistant refused to put Forum 18 through to the Judge to find out why he jailed an individual who could not serve in the military on grounds of conscience and who is ready to perform alternative civilian service. "Everything is written in the verdict," the assistant – who did not give his name – told Forum 18. The assistant pointed out that Nazaretyan has the right to appeal and noted that the verdict has not yet come into legal force (see below).

"I am a Christian and I read the Bible," Nazaretyan told Forum 18. "Jesus Christ teaches us not to kill and he followed this also. We have to love one another, even our enemies, and not kill people." He added that Jesus Christ also instructed his followers not to swear oaths. "If I was given alternative civilian service now, I would do it" (see below).

Forum 18 was unable to ask Serop Armenakyan of Yerevan's No. 2 Regional Division of the Conscription Service why he had refused to accept Nazaretyan's application for alternative civilian service in July 2022. The duty officer told Forum 18 that Armenakyan was out of the office. He insisted that "all here work according to the law". He added that decisions on whether to grant alternative civilian service are taken not by the local office of the Conscription Service but by the Alternative Service Commission (see below).

In early 2023, while the criminal investigation was already underway, officials summoned Nazaretyan to the Alternative Service Commission. This is a state body made up of deputy ministers from a range of ministries, as well as Vardan Astsatryan of the government's Department for Ethnic Minorities and Religious Affairs. On 23 January, it accepted all the Jehovah's Witnesses' applications for alternative civilian service, but rejected Nazaretyan's (see below).

Arkady Charchinyan, head of the Territorial Management and Infrastructure Ministry's Administrative Control Department, who officials said was in charge of alternative service issues at the Ministry, told Forum 18 that he had not participated in the 23 January meetings with applicants for alternative civilian service and refused to discuss anything (see below).

Asked why the Commission rejected Nazaretyan's application, Astsatryan of the government's Department for Ethnic Minorities and Religious Affairs said he does not remember the name. "If he has these views he should have presented them," he told Forum 18 (see below).

Investigator Arsen Topchyan handed documents on Nazaretyan's case to the Theology Faculty of Yerevan State University and asked it to review his religious views. The Theology Faculty is led by Bishop Anushavan Jamkochyan of the Armenian Apostolic Church.

The Faculty claimed that the case materials on Nazaretyan's religious affiliation were allegedly "contradictory". Despite admitting that Nazaretyan regularly attends a Baptist Church with his family, the Theological Faculty claimed: "We conclude from all this that Nazaretyan's religious worldview is either not clearly formed, or he himself does not clearly know what religious affiliation he has. We also do not rule out that his statements are opportunistic" (see below).

The Theology Faculty also claimed: "The creed of the Baptist Church and the analysis of the presented case materials allow us to state that Nazaretyan's freedom of thought, conscience and religion would not be restricted by military service" (see below).

However, Nazaretyan's Baptist Pastor, Mikhail Shubin, says that he and his Church think that decisions on whether or not church members should serve in the military are "a personal decision for each church member based on their conscience", he told Forum 18 from Yerevan. "We support Davit in his decision" (see below).

Bishop Anushavan and a lecturer at the Theology Faculty did not respond to Forum 18's requests for comment. So Forum 18 was unable to find out why they offer views on beliefs they do not understand, and why they also offer views on a legally binding human rights obligation – the freedom of thought, conscience and belief – which they also do not understand (see below).

Investigator Topchyan confirmed to Forum 18 that he had been the investigator in Nazaretyan's case. But he refused to explain why he handed case materials to and asked for an assessment of Nazaretyan's religious beliefs from the Theology Faculty, which is led by a member of another religious community. It also remains unclear why he sought views on the implementation of Armenia's legally binding human rights obligations from a group which does not understand Armenia's obligations (see below).

As Investigator Topchan refused to discuss the case, Forum 18 was also not able to ask him why he thought Armenia's international human rights obligation to respect the rights of conscientious objectors to military service should not apply in Nazaretyan's case (see below).

Anna Barsegyan of Yerevan Garrison Military Prosecutor's Office, who led the case, including in court, did not answer Forum 18's questions as to why she brought the criminal case against Nazaretyan when he cannot serve in the armed forces because of his conscientious beliefs, when alternative civilian service exists in Armenia, and when he repeatedly asked to be allowed to perform alternative civilian service (see below).

Human rights defender Isabella Sargsyan of the Eurasia Partnership Foundation in Yerevan has reviewed documents in Nazaretyan's case. "We haven't heard of such cases for a long while, and it is disappointing to see the position of the Alternative Service Commission and the court on this matter," she told Forum 18 from Yerevan on 8 November.

### ***Military service, alternative civilian service***

All men in Armenia are subject to conscription between the ages of 18 and 27. Deferments are available in strictly limited circumstances. Military service lasts for 24 months. Those subject to conscription can apply for service without weapons within the armed forces, which lasts 30 months, or for alternative civilian service, which lasts 36 months.

For many years, Armenia jailed those unable to perform military service on grounds of conscience, despite a commitment to the Council of Europe to introduce a civilian alternative to military service by January 2004. Armenia jailed more than 450 Jehovah's Witnesses and one Molokan Christian. All had refused a military-controlled alternative service that [did not meet Armenia's legally-binding international human rights obligations](#).

In May 2013, amendments to the 2003 Alternative Service Law and to the 2003 Law on Implementing the Criminal Code [were passed](#), and a fully civilian alternative service was created. By November 2013, the authorities had [freed all the then-jailed jailed conscientious objectors](#). All were Jehovah's Witnesses. Since 2013 hundreds of young men have undertaken alternative civilian service, without any reported problems.