

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	215
Land:	Armenien
Kilde:	Forum 18
Titel:	Armenia: Jailed conscientious objectors freed – but alternative service applications missing?
Udgivet:	28. november 2013
Optaget på baggrundsmaterialet:	9. januar 2014



Armenia: Jailed conscientious objectors freed - but alternative service applications missing?

By Felix Corley, Forum 18 News Service

Armenia's Jehovah's Witness community has welcomed the freeing from prison of all conscientious objectors jailed for refusing military service, and the approval of 71 applications for the new civilian alternative service. However, Jehovah's Witnesses expressed concern over 41 further applications to the government's Alternative Service Committee – many lodged in July – which officials claimed to Forum 18 News Service have not been received. 12 of those waiting for a Committee decision have criminal cases against them, and have been deprived of passports. This means, among other things, that they cannot travel abroad, legally work, or marry. Artur Sogomonyan – secretary of the Alternative Service Committee – insisted to Forum 18 that no applications had been lost. The Territorial Administration Ministry spokesperson claimed she could not answer Forum 18's question as it had not been formulated in accordance with the law.

Armenia's Jehovah's Witness community has welcomed the freeing from prison of all their young men imprisoned for refusing military service and the approval of 71 applications for the new civilian alternative service. "Now, for the first time since 1993, no Jehovah's Witnesses are imprisoned in Armenia for their conscientious objection to military service," they told Forum 18 News Service.

However, Jehovah's Witnesses expressed concern over 41 further applications to the government's Alternative Service Committee – many lodged in July – which officials claimed to Forum 18 have not been received. Also, 12 of those waiting for a decision have criminal cases against them, and have been deprived of passports. This means, among other things, that they cannot travel abroad, legally work, or marry (see below).

The release of all known conscientious objectors from prison, and the introduction of what appears to be a fully civilian alternative service, implements a January 2001 commitment Armenia made on joining the Council of Europe to do both these things by January 2004. Repeated failure to do both has been strongly criticised internationally (see F18News 17 October 2013 http://www.forum18.org/archive.php?article_id=1887).

Jehovah's Witnesses calculate that more than 450 of their young men were imprisoned for conscientious objection between 1993 and 2013. Another known conscientious objector former prisoner was a member of Armenia's small Molokan community, a Russian Protestant-style community.

However, a Council of Europe commitment Armenia made at the same time - "to ensure that all churches or religious communities, in particular those referred to as 'non-traditional', may practise their religion without discrimination" - has not yet been fully implemented (see forthcoming F18News article).

Amendments

The conscientious objection change came in amendments to the 2003 Alternative Service Law and to the 2003 Law on Implementing the Criminal Code. They were approved in parliament on 2 May 2013 and signed into law by President Serzh Sarkisyan on 21 May (see F18News 6 June 2013 http://www.forum18.org/archive.php?article_id=1844).

President Sarkisyan was reminded of the continuing imprisonment of 29 conscientious objectors when he addressed the Parliamentary Assembly of the Council of Europe in Strasbourg on 2 October. In response, Sarkisyan claimed that Armenia has conducted "an immense amount of work" to ensure freedom of conscience, according to remarks published on the Parliamentary Assembly and presidential websites. He pointed to the alternative service legal amendments and the abolition of criminal prosecution for conscientious objectors. "There is a political will, legislative reform has been implemented and the process is under way," he claimed.

Releases

The releases of imprisoned conscientious objectors only began after President Sarkisyan's Strasbourg speech.

Eight imprisoned conscientious objectors – all Jehovah's Witnesses - were freed on 9 October after they were included in a prisoner amnesty which saw their prison terms reduced by six months. Several of the eight were freed just days before the end of their sentence (see F18News 17 October 2013 http://www.forum18.org/archive.php?article_id=1887).

Six more were released on 24 October, the day after their applications were accepted. They were the first to benefit from the June 2013 amendments. The remaining 14 were freed on 12 November, the same day the Alternative Service Commission accepted their applications (see below).

Alternative Service Committee applications

The government has set up an Alternative Service Committee to decide on applications for alternative service (see F18News 6 June 2013 http://www.forum18.org/archive.php?article_id=1844). It has met twice to review applications. At its first session on 23 October, 57 applications were approved. Six of them were from Jehovah's Witness prisoners, who were freed the following day.

Only one application – not from a Jehovah's Witness – was rejected, Committee secretary Artur Sogomonyan told Forum 18 from Yerevan on 27 November. He said the individual had lodged his application late and therefore it could not be considered. He declined to identify the young man. Human rights defenders were unable to identify the individual either.

At the Alternative Service Committee's second session on 12 November – held in Erebuni Prison because all the 14 applicants were then prisoners there – all applications were accepted. The releases of the prisoners occurred the same day, Jehovah's Witnesses told Forum 18.

The Committee interviewed each applicant separately for between five and 40 minutes, their lawyer

Yelena Margaryan told Forum 18 from the capital Yerevan on 27 November. For all the Jehovah's Witness applicants, she was present during interviews. During the 23 October interviews she was also accompanied by another lawyer.

"Questions to the young men were reasonable," Margaryan told Forum 18. "The Committee wanted to understand their stance." Decisions on each application were made the same day as the hearing.

Will civilian service be civilian?

All the young men accepted for alternative civilian service are waiting at home for information on where they will be assigned to perform their service. Those who have served a prison sentence will have the length they have served deducted from the length of alternative civilian service.

Under a 25 July government decision, 11 institutions were identified as places where alternative civilian service would be carried out including nursing homes, children's homes and psychiatric clinics. The 11 institutions are controlled by a number of ministries: the Labour and Social Affairs Ministry, the Health Ministry and the Emergency Situations Ministry. A separate list identified tasks the alternative service workers would carry out, including hospital orderly, laundry worker, kitchen worker, ground staff or emergency rescuer's assistant (see F18News 17 October 2013 http://www.forum18.org/archive.php?article_id=1887).

Jehovah's Witnesses told Forum 18 that they are hopeful that the alternative civilian service will remain civilian.

Since the Alternative Service Law entered into force in 2004, those called up could instead apply for alternative service under military control, which lasted up to 42 months. This did not meet the country's Council of Europe commitments (see F18News 3 December 2012 http://www.forum18.org/archive.php?article_id=1774). When the Alternative Service Law was first adopted in 2004, 22 Jehovah's Witnesses and a Molokan accepted the new alternative service. But they abandoned it in early 2005 after it became clear it was under military control. All 23 were subsequently imprisoned (see F18News 22 February 2006 http://www.forum18.org/archive.php?article_id=732).

The new 2013 alternative civilian service has been set at three years, compared to military service of two years. Although Jehovah's Witnesses note that the longer service could be considered "punitive", they told Forum 18 that they consider this a lesser issue than having a genuinely civilian service available for their young men. Armenian human rights defenders have criticised the length of the alternative service (see F18News 6 June 2013 http://www.forum18.org/archive.php?article_id=1844).

Missing applications?

In addition to those whose applications for alternative civilian service have been accepted, applications from 41 Jehovah's Witness conscientious objectors have yet to be considered by the Alternative Service Committee. Many were lodged on 23 July, the same day that others which have already been considered were lodged. Others were lodged after that as the young men involved were still aged 17 and were trying to clarify from Conscription Offices whether such applications should be lodged before they reach their 18th birthday.

Twelve of those waiting for a decision have criminal cases against them, and five of the 12 have criminal trials currently underway against them. "In the case of those on trial, courts repeatedly have to adjourn hearings as they wait for an Alternative Service Committee date", their lawyer Margaryan told Forum 18.

They have no passport and live under restrictions while they wait for the Alternative Service Committee decisions. The restrictions imposed by having no passport include not being able to legally work or marry.

However, Sogomonyan – secretary of the Alternative Service Committee – insisted to Forum 18 that no applications are currently pending. Asked about the 41 waiting – many of which were lodged more than four months earlier – he responded: "I haven't got them. Any that have been submitted end up with me." Asked if they could have got lost, he replied: "Applications don't get lost." He speculated that some might have been submitted after the deadline, but had no information.

The applicants' lawyer Margaryan insists that the 41 applications were submitted properly. She stated that some may have been submitted late, as individuals still aged 17 or who had medical conditions which might have led to exemption from call-up were trying to find out from Conscription Offices whether they needed to submit applications. She insisted that in all these cases, individuals who submitted applications late asked for an extension to the consideration period, which was not rejected.

Forum 18 tried to reach Vache Terteryan, First Deputy Minister of Territorial Administration and Chair of the Alternative Service Committee. However, his staff told Forum 18 on 27 November that he was not available, referring Forum 18 to Ministry spokesperson Zoya Barsegyan.

At Barsegyan's request, Forum 18 asked in writing the same day what has happened to the missing applications and whether the young men now have to send photocopies to the Committee for them to be considered. She responded on 28 November refusing to answer the question, as she said it had not been formulated in accordance with the law.

26 cases at European Court of Human Rights

A total of 26 Jehovah's Witness conscientious objectors who were subjected to imprisonment to punish them for refusing to perform military service or the military-controlled alternative service then on offer have lodged cases to the European Court of Human Rights (ECtHR) in Strasbourg, Jehovah's Witnesses told Forum 18. They said these cases are continuing.

In four previous cases, the ECtHR in Strasbourg has found the Armenian government to have violated the rights of conscientious objectors. In a landmark case, the court ruled in July 2011 in favour of former conscientious objector prisoner Vahan Bayatyan. The ECtHR handed down two similar judgments against Armenia – in cases brought by Hayk Bukharatyan and Ashot Tsaturyan – in January 2012 (see F18News 1 February 2012 http://www.forum18.org/Archive.php?article_id=1661).

In November 2012, the ECtHR – in its fourth decision against Armenia in conscientious objector

cases – found that Armenia had violated the rights of 17 Jehovah's Witness conscientious objectors. For the first time in such cases, Armenia's European Court Judge, Alvina Gyulumyan, did not dissent from the judgment.

The November 2012 judgment awarded compensation of 6,000 Euros to each of the 17 conscientious objectors. The government was also required to pay a total of 10,000 Euros in costs for all the applicants (see F18News 3 December 2012 http://www.forum18.org/archive.php?article_id=1774).

This judgment became final on 27 February 2013, with compensation payable by 27 May. The government paid the 112,000 Euros compensation in mid-May.

The ECtHR's most significant judgment was in July 2011, in the case of former conscientious objector prisoner Vahan Bayatyan (Application No. 23459/03). It found that the right to conscientious objection is protected by Article 9 ("Freedom of thought, conscience and religion") of the European Convention on Human Rights and Fundamental Freedoms (see F18News 7 July 2011 http://www.forum18.org/archive.php?article_id=1887).

Conscientious objection deniers

Other Council of Europe countries which do not offer a full civilian alternative to compulsory military service are Azerbaijan and Turkey. Azerbaijan freed both of its known conscientious objector prisoners earlier in 2013 (see F18News 28 June 2013 http://www.forum18.org/archive.php?article_id=1852).

Turkish military court decisions concerning conscientious objection claims have shown a selective and not complete recognition of the right to conscientious objection, after Council of Europe pressure on the Turkish government to implement ECtHR judgments (see F18News 1 May 2012 http://www.forum18.org/archive.php?article_id=1696).

The unrecognised breakaway entity of Nagorno-Karabakh in the south Caucasus also imprisons conscientious objectors. Jehovah's Witness Karen Harutyunyan was sentenced in December 2011 to 30 months' imprisonment and remains in prison in Shusha (see F18News 17 January 2012 http://www.forum18.org/archive.php?article_id=1656).

Belarus – not a Council of Europe member - has in recent years imprisoned conscientious objectors, though none are currently known to be in prison. Any Alternative Service Law is, officials claim, now being prepared (see F18News 10 January 2013 http://www.forum18.org/archive.php?article_id=1789).

Turkmenistan – also not in the Council of Europe – currently has eight known conscientious objector prisoners (see F18News 29 August 2013 http://www.forum18.org/archive.php?article_id=1869). The latest prisoner freed was Juma Nazarov on 29 August. (END)

More coverage of freedom of thought, conscience and belief in Armenia and the unrecognised entity of Nagorno-Karabakh is at <http://www.forum18.org/Archive.php?query=&religion=all&country=21>.

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.

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.

A printer-friendly map of Armenia is available at <http://education.nationalgeographic.com/education/mapping/outline-map/?map=Armenia>.

All Forum 18 News Service material may be referred to, quoted from, or republished in full, if Forum 18 <www.forum18.org> is credited as the source.