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**Prior to the Adoption of the List of Issues**

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**Fourth periodic report pursuant to article 40 of the Covenant**

**Azerbaijan**

**(118th Session of the Human Rights Committee, 17 October – 4 November 2016)**

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| SUMMARY OF THE SUBMISSION This submission to the Human Rights Committee highlights violations of the provisions of the International Covenant on Civil and Political Rights (ICCPR) by Azerbaijan. It is hoped that the submission will assist the Committee in formulating the *List of issues to be taken up in connection with the consideration of the fourth report of Azerbaijan* (CCPR/C/AZE/4).  Azerbaijan refuses to provide reregistration to the Religious Community of Jehovah’s Witnesses and restricts the importation and distribution of their religious literature. Over the past few years, state officials have carried on a campaign of religious repression by raiding religious meetings and arresting and convicting Jehovah’s Witnesses for participating in peaceful religious activity. For example, 55-year-old Witness Irina Zakharchenko and 38-year-old Valida Jabrayilova are currently being held in pretrial detention in Baku simply for peacefully sharing their religious beliefs with others. Both are suffering extreme deprivation while in prison. In particular, Ms. Zakharchenko, who is disabled, is severely malnourished, suffers from extreme sleep deprivation and is at imminent risk of death or permanent physical and psychological harm. On 3 December 2015 the Committee granted interim measures and requested that Ms. Zakharchenko be immediately released from pretrial detention (see paras. 39-45 below). On 17 December 2015 Judge Gahramanov in the Baku Pirallahi District Court ignored the Committee and extended the pre-trial detention. In addition to these abuses, foreigners are prohibited from conducting any religious activity in Azerbaijan or they face deportation. Despite its obligations, Azerbaijan refuses to protect the rights of conscientious objectors to military service.  In harmony with its commitment to the norms of international society, we respectfully request that Azerbaijan:   1. Stop arresting and convicting Jehovah Witnesses to prison terms and fines for participating in peaceful religious activity. 2. Provide reregistration to the religious community of Jehovah’s Witnesses in Baku and in other cities. 3. Protect the right to profess one’s religious beliefs individually or jointly with others. 4. Prevent further illegal interference from the police authorities with the peaceful exercise of the freedom of religion and freedom of assembly. 5. Provide acceptable alternative civilian service for conscientious objectors. 6. Allow importation of Bible literature without censorship. 7. Stop deporting and arresting foreign citizens who peacefully assemble for religious meetings. 8. Rescind the deportation orders against Jehovah’s Witnesses already illegally deported from Azerbaijan. |

# INTRODUCTION

* 1. The European Association of Jehovah’s Christian Witnesses (EAJCW) is a charity registered in the United Kingdom. It is assisting the adherents of the faith of Jehovah’s Witnesses in various areas of the world.
  2. The Christian community of Jehovah’s Witnesses has been present in Azerbaijan since at least the early 1990s.
  3. More than 2,600 persons attend Bible-based meetings organized by Jehovah’s Witnesses in Azerbaijan. Authorities registered them in 1999 and again in 2002 in harmony with changes in the law. Although Jehovah’s Witnesses peacefully practice their worship, they have experienced growing difficulties and have been denied reregistration required by the 2009 law. This lack of registration is regularly used by Azerbaijani authorities to justify their harassment of Jehovah’s Witnesses.
  4. This submission focuses on the blatant violations of the rights protected under articles 18, 19, and 21 of the ICCPR.

# II. DOMESTIC IMPLEMENTATION OF RELIGIOUS FREEDOMS AS RECOMMENDED BY UN BODIES

## Recommendations made in the concluding observations of the Human Rights Committee in 2009 (CCPR/C/AZE/CO/3)

* 1. Under section C “Principal subject of concerns and recommendations,” §13 states that

“The Committee notes with concern that, notwithstanding the delegation’s explanation that the practice of religion is not restricted in the State party, religious communities are requested to register and obtain legal personality in order to be able to function freely, as the lack of legal personality may prevent such communities from the enjoyment of a large number of rights (…).

The State party should take steps to ensure full respect for the right of freedom of religion or belief and ensure that its legislation and practices conform fully to the requirements of article 18 of the Covenant.”

* 1. Further, the same document § 14 pointed out that:

“The Committee remains concerned that no legal provision regulates the status of conscientious objectors to military service (art. 18).

The Committee recommends that a law exempting conscientious objectors from compulsory military service and providing for alternative civilian service of equivalent length be adopted at an early date in compliance with article 18 of the Covenant and the Committee's general comment No. 22 (1993) on article 18 (Freedom of thought, conscience or religion).”

## Recommendations of the 11th Session of the UPR in 2009

* 1. Similarly, during the 11th Session of the Universal Periodic Review in 2009, paragraph 96.18 under Section II “Conclusions and/or Recommendations” called upon Azerbaijan to:

“Improve respect for the right to freedom of assembly in line with its domestic legislation and its obligations under article 21 of the ICCPR.”

* 1. Paragraph 96.19 called upon Azerbaijan to:

“Take fully into account the recommendations of the Special Rapporteur on Freedom of Religion aimed at promoting and fully ensuring freedom of religion for all religious communities throughout Azerbaijan”; and to “Come to a more streamlined and transparent registration process(…).”

## Recommendations in the Report of the Working Group on the UPR (A/HRC/24/13) in 2013

“109.102. Continue the realization of measures aimed at promoting tolerance, including religious tolerance, as well as continue its contribution to the dialogue among civilizations at the international level (Russian Federation);

109.103. Reform its legal framework on freedom of religion by streamlining, facilitating and increasing the transparency of the registration process for religious organizations, including eliminating the obligation for religious groups to seek prior authorization to gather, and removing limitations on the printing, import and distribution of religious materials (Canada);”

## Observed current situation

* 1. As demonstrated by the examples below, Azerbaijan has not improved its record on the above-mentioned recommendations. In fact, the situation has worsened. Ten years ago, the 2006 report of the Special Rapporteur on freedom of religion or belief (by Asma Jahangir) called upon Azerbaijan for greater respect for freedom of religion. The report specifically addressed matters of registration, censorship, conscientious objection, places of worship and religious sites, and immigration policy as it relates to religious workers—all of which remain problematic for Jehovah’s Witnesses in Azerbaijan today.

# Alleged Violations of the ICCPR - Freedom of thought, conscience and religion and right to non-discrimination (ICCPR – Articles 18, 19, and 21)

## Refusal of Registration of Religious Community

### Unsuccessful registration Efforts in Baku

* 1. Jehovah’s Witnesses were registered in Baku, the capital of Azerbaijan, on 22 December 1999. After the government changed the law, the religious organization was required to reregister in Baku on 7 February 2002. Again, the law changed in May 2009. Therefore, in November 2009, Jehovah’s Witnesses applied for reregistration in compliance with this new legislation. In February 2010, they learned that the State Committee for Work with Religious Associations (SCWRA) had refused their application on a technicality, an alleged failure to include necessary documents.
  2. Actually, the Religious Community of Jehovah’s Witnesses in Baku tried several times to provide the documentation required for reregistration and attempted to inform the State Committee. Nevertheless, the State Committee informed the Witnesses that they would have to voluntarily dissolve the Religious Community, and then reapply for registration with no guarantee that it would be granted. Therefore Jehovah’s Witnesses filed an appeal in court against the SCWRA. The court case ultimately went to the Supreme Court of Azerbaijan. On 1 February 2012 the Supreme Court upheld the decision of the lower court, thus refusing to give Jehovah’s Witnesses full legal status. Under Azerbaijani law, in order to liquidate the religious community’s existing registration of 7 February 2002 the SCWRA would have to obtain a court order, which they have not done. Therefore, Jehovah’s Witnesses in Azerbaijan are left in a state of uncertainty.

### Unsuccessful Registration Efforts in Barda and Ganja

* 1. Jehovah’s Witnesses in Azerbaijan have repeatedly attempted to obtain registration in places outside of Baku. On 9 April 2009 they filed an application for nationwide registration, and on 30 December 2009 they updated this application in accordance with changes in the law. After repeated requests for an update on the status of the application, the SCWRA wrote on 13 July 2013 that “the passing of registration is not possible”. The reason given was that the “territory of activity” must be the community’s legal address and cannot be the territory of Azerbaijan.
  2. Jehovah’s Witnesses have also filed applications for registration in the cities of Barda and Ganja. After the SCWRA denied these applications for alleged technical deficiencies, a new application was filed for registration in Ganja; however, this application has never been answered. A new application was made in 2015 for registration in Ganja and it was again denied for alleged technical deficiencies. A new attempt was made on 11 November 2015 to file a new application addressing the alleged technical deficiencies. To date, no reply has been received.

**Key Recommendation of the Venice Commission Opinion 681/2012 on the Law on Freedom of Religious Beliefs in Azerbaijan**

(…)I. to reform the system of state registration of religious communities by:

- allowing individuals and religious communities to practice religion without state registration, if they so choose

- clarifying which information and documents require state registration

- ensuring that state authorities in charge of registration do not engage in a substantive review of the statute or character of a religious group

- setting a deadline for the state authorities to decide on registration

### Convictions, Fines and Imprisonment Resulting from Holding Peaceful Religious Meeting without Registration

* 1. State authorities have repeatedly raided religious meetings of Jehovah’s Witnesses in places where the SCWRA refused to provide registration, stating that such meetings violate the law.
  2. For example, on 20 November 2011 police raided a peaceful meeting of Jehovah’s Witnesses in Ganja. Six Witnesses were taken to the Kapaz District Court and convicted for attending religious meetings without government authorization. Two of the Witnesses were each fined AZN 2,000 (approximately USD 2,530), and four others were each fined AZN 1,500 (approximately USD 1,900). Asim Mammadov, one of the convicted persons, was not able to pay the enormous fine, and on 18 July 2012 the Kapaz District Court ruled to imprison him three days for non-payment of the fine. On 14 October the same court sentenced Rashad Niftaliyev to 20 days of imprisonment for his failure to pay the entire amount of his fine. On 16 October the court ordered that 61-year-old Mardan Mammadov be imprisoned for 10 days for non-payment of his fine.
  3. On 21 September 2013 police raided the home of the Aliyev family in Aliabad shortly before a meeting for worship was about to begin. Police officers entered the home by force and thoroughly searched it, confiscating everyone’s personal religious literature, as well as the Aliyevs’ private medical and financial documents. The police detained eight Witnesses at the police station until late at night. At the station police officers threatened and insulted the Witnesses. On the way to the station, the emotional stress caused Havva Aliyeva to have an epileptic seizure. She was taken to a local hospital and treated. When Havva’s husband, Aziz, arrived at the hospital, the police did not allow him to visit her. Instead he was taken to the police station for interrogation. The police coaxed Havva from the hospital to the police station a few hours later, where the stress triggered a second seizure. Aziz took her back to the hospital where she was treated a second time.
  4. The Zagatala District Court on 26 November 2013convictedthree members of the Aliyev family and three other Jehovah’s Witnesses. On December 3, 2013, the same court convicted two more Jehovah’s Witnesses. The owner of the house Aziz Aliyev, his son Jeyhun Aliyev, husband and wife Vagif and Gamar Aliyev (no relation to the Aliyev family), husband and wife Rauf and Samira Aghayev, and Yevdokiya Sobko were each fined 1,500 AZN (USD 1,925) and Havva Aliyeva was given an official warning. On 23 December 2013 the Shaki Court of Appeal dismissed appeals filed by Aziz Aliyev, his wife Havva, son Jeyhun, and Vagif and Gamar Aliyev. On 10 January 2014 the same court dismissed the appeals of Rauf and Samira Aghayev.
  5. On 11 January 2014 Ganja police raided a religious service of Jehovah’s Witnesses in the home of Irada Huseynova and took all 36 attendees to the Kapaz District Police Department. The police took five of the Witnesses–Elgiz Aliyev, Irada Huseynova, Elyar Bakirov, Anar Huseynov, and Asif Jafarov–to the Kapaz District Court. On 23 January 2014 the Kapaz District Court convicted all five and fined them each 1,800 AZN (USD 2300). On 13 and 18 February 2014 the Ganja Court of Appeal dismissed their appeals. On 21 October 2014 Ganja Kapaz District Court ordered that Irada Huseynova be placed in jail for 3 days for non-payment of her fine.
  6. On 2 March 2014 about 20 police officers raided a religious meeting of 13 people in the private home of Klara Shirinova in Lankaran. The police refused to produce a search warrant and videotaped all present. Several were taken to the police that day and in the days that followed. On 8 May the Lankaran District Court fined Klara’s daughter Tarana Huseynova 1,500 AZN (USD 1,925) and later convicted Klara, giving her an official warning, while fining Klara’s granddaughter, Fatmakhanim Huseynzada, 1,500 AZN (USD 1,925). On 19 and 23 May 2014 appeals were filed with the Shirvan Court of Appeal. Eventually, Tarana and Fatmakhanim were acquitted of the charges against them.
  7. On 4 June 2014 Ganja police raided a religious meeting of about 20 people in the home of Tarana Mammadova. The police did not produce a search warrant and videotaped all present. The police took everyone to the Kapaz District Police Station, insulted them, and confiscated their religious literature. Each detainee was interrogated and ordered to write statements. Police wrote up protocols for Elgiz Aliyev, Akif Aliyev, Tarana Mammadova, and Rashad Niftaliyev, and on 17 June 2014 the Ganja Kapaz District Court convicted and fined all four–Elgiz 2,000 AZN (USD 2,650), and Rashad, Tarana, and Akif 1,800 AZN (USD 2,300) each.
  8. On 8 June 2014 police raided a meeting for worship in the home of Mingachavir resident Asif Bakirov, declared the meeting illegal because the Witnesses did not have registration, and videotaped the raid. The police interrogated those in attendance and took Rza Babayev, Asif, and Asif’s son, Elchin Bakirov, to the police station. On June 18, the Mingachavir City Court fined Rza and Asif 1,500 AZN (USD 1,925) each. Rza and Asif filed appeals in Shaki Court of Appeal on 20 June 2014 but the Court dismissed both appeals.
  9. On 12 October 2014 more than 10 police officers raided a peaceful religious meeting of about 20 people in the home of Saladdin Mammadov in Ganja. The police did not produce a search warrant and videotaped all present. The police took them to the Kapaz District Police Station, insulted them, and confiscated their religious literature. Each detainee was interrogated and ordered to write a statement.
  10. On 14 October 2014 the Nizami District Police Division in Ganja convicted Sadagat Abbasova, Rashad Niftaliyev, and Saladdin Mammadov under Article 299.0.2 of the Administrative Violations Code (AVC) and fined them 2,000 manat (USD 2,560 each). The Witnesses filed appeals with the Ganja Nizami District Court, but on 6 November 2014 the court dismissed their appeals. They appealed to the Ganja Court of Appeal. However, on 28 November 2014 the appeal court later dismissed their appeals.
  11. On 8 June 2015 Rana Sadigova, received a copy of a 14 October 2014 decision convicting her under Article 299.0.2 of the AVC and imposing a fine of 2,000 manat (USD 1,905), for attending a religious meeting on 12 October 2014. On 18 June 2015 she filed an appeal with the Ganja Nizami District Court, but on 7 July 2015 the court declared her appeal inadmissible, since she allegedly missed the deadline to appeal.
  12. On 14 November 2015 police raided a congregation meeting taking place in a private home and detained 27 people. They were taken to the Ganja Kapaz District Police Department and then gradually released. Some were kept almost ten hours. Police charged 12 individuals under Article 299.0.2 of the Administrative Violations Code, which forbids “violation of legislated rules of organization and conducting of religious meetings, street processions and other religious ceremonies.” They were summoned to Ganja Kapaz District Court on Sunday, 15 November 2015. Their hearings were adjourned until later in November 2015, when Ganja Kapaz District Court fined each of the 12 individuals 2,000 manat (USD 1,905). The same week, the Ganja Kapaz District Court imposed prison sentences on Rashad Niftaliyev (25 days), Elyar Bakirov (10 days), Tarana Mammadova (3 days), and Irada Huseynova (3 days) for failing to completely pay fines from past meeting raids.

## Police interference with manifestation of belief, arrests and fines

* 1. The Law on Freedom of Religious Beliefs (Article 12) confines the activity of religious associations to their registered legal address. This contradicts the Committee’s jurisprudence, which recognizes the right to freely manifest religious belief in in community with others.
  2. On 27 September 2013 while peacefully speaking to neighbours about the Bible, Ilham Hasanov and Rza Babayev, two Jehovah’s Witnesses in Barda, were stopped by a local man who gathered a mob of about twenty men. The crowd insulted and assaulted Ilham and Rza, and tore some of their Bible literature. Ilham and Rza called the police several times, but the police were slow to respond. When the police eventually did arrive, they took Ilham and Rza to the station and started a case against them, rather than against the attackers. On 7 October 2013 the Barda District Court convicted Rza and Ilham and issued an official warning against them. On 17 October 2013 Ilham and Rza appealed to Ganja Court of Appeal. On 7 November the Appeal Court dismissed their appeals.
  3. On 4 February 2014 Ganja police detained Samir Huseynov and a Witness companion for talking about the Bible in public. The following day the police took Samir to the Kapaz District Court where he was convicted and given a three-day jail sentence. The chief jailer verbally insulted Samir, slapped him in the face several times, and threatened him with sexual violence. On 17 February 2014 Samir appealed his conviction and sentence to the Ganja Court of Appeal, and on 3 March 2014 the court dismissed Samir’s appeal.
  4. On 13 April 2014 police arrested Jamala Ibrahimova and Aytaj Amirzada, a minor, for sharing a Bible message in an apartment building in Baku and took them to Police Department No. 24. The police later released them without charges, but ordered them to return to the station the next day. On 14 April police took Aytaj and her mother to meet the director of Aytaj’s school. The director pressured her to promise she would stop reading the Bible. When Aytaj refused, the director threatened to expel her if she continued reading the Bible and manifesting her beliefs.
  5. On 16 April 2014 Gakh police detained Gulara Huseynova and Elnara Askarova for discussing the Bible with a woman in her home. Police interrogated the two Witnesses and searched their bags, seizing their personal copies of the Bible and other religious publications. The police ordered the two Witnesses to stop sharing their religious beliefs.
  6. On 23 April 2014 Irina Khoteyenko visited the home of a woman in Baku to talk about the Bible. The woman’s son, a police officer, came to the door and accused Irina of distributing forbidden literature. He took her to the police station where she was interrogated for several hours. After hours of questioning, threats, and insults, the police released Irina, having confiscated her personal copy of the Bible.
  7. On 25 April 2014 Lankaran police detained Royal Aghalarov and Fatima Ismayilzada for speaking about the Bible in a residential building. At the police station, officers told Royal and Fatima that it was forbidden to talk to others about their beliefs and released them after ordering them to write statements. On 30 June the Lankaran District Court convicted Fatima for her religious activity and gave her an official warning. On 22 July 2014 the same court found Royal not guilty. On 5 August 2014 the Shirvan Court of Appeal returned Fatima’s case to the Lankaran District Court for reconsideration. The official warning was upheld.
  8. On 18 May 2014 police detained Gulara Huseynova along with 14-year-old Luka Khutsishvili, whose parents are Jehovah’s Witnesses, for speaking to people about the Bible. On 19 May 2014 police charged Gulara and took her to the Gakh District Court, which acquitted her of the charges.
  9. On 21 May 2014 Baku police detained Khuraman Abbasova and a fellow believer named Khanum for sharing their religious beliefs near a shopping center. At Police Department No. 24, police officers insulted them, threatened them with physical violence and criminal charges. After seven hours of detention, police took them to the Nizami District Prosecutor’s Office, where the Prosecutor told the Witnesses it was shameful to read the Bible as Muslims. He interrogated and released them without charges.
  10. On 21 May 2014 police detained Ayshen Hasanzade and a companion named Ilaha for sharing their religious beliefs near a market in Baku. At Police Department No. 24, officers insulted and threatened them, searched their bags, and ordered them to write a statement, after which the police returned their literature and released them.
  11. On 19 July 2014 police in Mingachavir detained Elchin Bakirov and Sakina Najafova for sharing their beliefs in an apartment building. The next day, the Mingachavir City Court convicted Elchin and fined him 200 AZN (USD 250). On 30 July Elchin filed an appeal in the Shaki Court of Appeal. On 21 August the Court of Appeal dismissed the appeal.
  12. On 19 August 2014 police detained Elchin Bakirov again, this time with Irada Ismayilova, for sharing their beliefs with their neighbours. The police took both to the police station for questioning, and released them after one hour.
  13. **Zagatala**. On 9 November 2014 police detained Matanat Gurbanova and Saadat Muradhasilova for sharing the Bible’s message with others. On 15 May 2015 the Zagatala District Court convicted both women under Article 299.0.4 of the AVC and fined them 1,500 manat (USD 1,430 each). They appealed these decisions, but on 15 July 2015 the Shaki Court of Appeal upheld the decisions of the lower court.
  14. **Baku**. On 5 December 2014 Irina Zakharchenko and Valida Jabrayilova were talking to residents of an apartment complex in Baku about their Bible-based beliefs when the police stopped them. The women were released after a few hours, but investigators repeatedly summoned them for interrogation at the Ministry of National Security (MNS). On 17 February 2015 MNS agents unexpectedly brought the women to a closed hearing and criminally charged them. The judge characterized them as a “threat to the public” in order to justify their sentences to pre-trial detention.
  15. Since then, MNS agents have conducted an extensive search of their homes, confiscating religious literature, personal notebooks, a laptop, and a mobile phone. The court has dismissed every appeal on behalf of the women and refused to grant house arrest as a replacement for pre-trial detention. On 7 May 2015 the Sabail District Court approved the request of the MNS to extend the pre-trial detention of these women for another two months. On 4 July 2015 and on 4 September 2015 the Sabail District Court again extended the pre-trial detention of Irina Zakharchenko and Valida Jabrayilova, until 17 December 2015.

CCPR/C/AZE/CO/3:   
“The Committee remains concerned about the existence of a pretrial investigation centre under the jurisdiction of the Ministry of National Security instead of the Ministry of Justice (art. 7, 9, and 10).

**The State party should close down the pretrial detention centre of the Ministry of National Security or place it under the jurisdiction of the Ministry of Justice.”**

**13 August 2009**

* 1. As part of the investigation, the MNS has summoned and interrogated at least 20 other Witnesses and searched at least ten homes. Additionally, officials representing the MNS, agents from the SCWRA, and the police searched the Kingdom Hall of Jehovah’s Witnesses in Baku.

**Resolution 2062 (2015) Parliamentary Assembly of the Council of Europe on Azerbaijan:**

11.5.5. take the necessary measures to ensure that pre-trial detention is not imposed without considering whether it is necessary and proportionate, or whether less intrusive measures could be applied;

* 1. Lawyers, family, and friends are concerned for the women’s physical and emotional health and well-being, which they believe is worsening. Ms Irina Zakharchenko is a 55-year-old disabled widow with a history of serious illness.
  2. During her incarceration, Ms. Zakharchenko has been denied needed healthcare, is severely malnourished, suffers from extreme sleep deprivation and is psychologically unwell. She is under constant psychological pressure. The very limited contact she has with the outside world indicates she is at imminent risk of death or permanent physical and psychological harm.
  3. On 3 December 2015 the Committee granted an application for interim measures in Ms. Zakharchenko’s case, requesting the state authorities to immediately transfer her “from the pretrial detention into a house arrest or other adequate alternative, including in particular the provision of adequate medical assistance, while the case is under the supervision of the Committee.” (*Irina Zakharchenko v. Azerbaijan*, Communication 2696/2015)
  4. In a hearing in the Baku Pirallahi District Court on 17 December 2015 Judge Gahramanov ignored the Committee and refused to transfer Ms. Zakharchenko to house arrest. The judge also ordered that Ms. Jabrayilova must remain in pretrial detention at least until their trial begins on 7 January 2016.
  5. On 8 December 2014 police detained Rahima Huseynova for talking about the Bible in public. On 26 December 2014 the Sabunchu District Court of Baku convicted Rahima under Article 299.0.4 of the AVC and fined her 1,500 manat (USD 1,430). She appealed the decision, but on 29 January 2015 the Baku Appeal Court dismissed her appeal.
  6. **Barda**. On 19 December 2014 police detained Rza Babayev and Ilham Hasanov for sharing the Bible’s message with others. On 2 February 2015 the Barda District Court convicted them under Article 299.0.2 of the AVC and gave them a warning. Rza Babayev and Ilham Hasanov filed an appeal against the decisions, but on 12 March 2015 the Ganja Appeal Court dismissed their appeals.
  7. **Ganja**. On 5 January 2015 police detained Zhala Niftaliyeva for discussing the Bible with others. She was accused under Article 300 of the AVC, but on 12 January 2015 the Ganja Nizami District Court dismissed the case against her.
  8. **Lokbatan**. On 21 January 2015 a security guard detained Ismayil Baghirov and Mahluga Ahmadova for talking about the Bible in public and took them to the police station. The Garadagh District Court dismissed the case against Mahluga Ahmadova but convicted Ismayil Baghirov under Article 299.0.2 of the AVC. He was fined 1,500 manat (USD 1,430). He appealed that decision, but on 27 February 2015 the Baku Court of Appeal upheld the conviction and the fine.
  9. The court punished Ismayil Baghirov primarily for distributing literature that did not bear the control stamp of the SCWRA. The Law on Freedom of Religious Beliefs (Article 22) stipulates that religious literature must be “labeled with a control stamp” upon import and afterwards may be “freely distributed.” On 5 February 2015 the Religious Community of Jehovah’s Witnesses (RCJW) wrote the SCWRA, inquiring about the labeling procedure. The SCWRA replied on 18 March 2015 that “at present, work on making the control stamp is still in progress.” While a mechanism to apply the law is now in place, it did not exist at the time Ismayil was convicted and fined.
  10. Between January and August 2015, police detained and questioned sixteen additional Jehovah’s Witnesses for sharing the Bible’s message with others.

**Venice Commission Opinion 681/2012 on the Law on Freedom of Religious Beliefs in Azerbaijan**

40. Article 1, paragraph 4, expressly prohibits “religious propagation by foreigners and persons without citizenship”. This prohibition conflicts with international law, which protects non-coercive religious expression (including proselytism, or missionary activity) by “everyone”, regardless of a person’s nationality. It should be emphasized that the right to discuss and “propagate” one’s belief is protected not only under Article 9 ECHR and Article 18 ICCPR, but also under the freedom of expression provisions of both international treaties (Article 10 ECHR and Article 19 (2) ICCPR).

(…)

42. Non-coercive religious expression or teaching of religious trends or beliefs furthermore enjoys protection as freedom of expression (Art. 19 ICCPR, Art. 10 ECHR); both on the side of the imparting as well as the receiving end. Moreover the freedom to engage in such “religious propagation” cannot be restricted on grounds of nationality or citizenship. Furthermore, such a restriction seems to be incompatible with Article 25 (3) of the Constitution.

## Censorship of Religious Literature

### Censorship by SCWRA Severely Restricts Importation of Religious Literature

* 1. Azerbaijani law stipulates that religious literature may be imported only with prior permission by the SCWRA. Moreover, all imported literature must now have the SCWRA’s control stamp on it.
  2. Currently, the SCWRA refused the import of 162 different religious publications of Jehovah’s Witnesses. This is clearly subjective censorship targeting Jehovah’s Witnesses.
  3. The SCWRA not only decides which publications are allowed for import, it also fixes the maximum quantity of each publication allowed importation.
  4. Since March 2010, eight Jehovah’s Witnesses have been fined AZN 200 (USD 250) each for the “offence” of distributing such literature, despite the fact that no evidence of distribution was put before the court. The Azerbaijani authorities have repeatedly made unauthorized searches in the houses of individual Jehovah’s Witnesses, confiscated their religious literature, and sent it to the SCWRA for review.
  5. Between January and August 2015, the SCWRA banned 11 publications of Jehovah’s Witnesses in various languages. Jehovah’s Witnesses have two cases in the administrative courts, challenging the SCWRA’s outright refusals to allow the importing of religious literature.

## Deportation of Foreigners

* 1. Since 2007, twelve foreign Jehovah’s Witnesses residing in Azerbaijan have been deported on the basis of Article 300 of the Code on Administrative Violations, which prohibits foreigners from spreading “religious propaganda,” without precisely defining what that means. Legislation is so vague that foreigners can be arrested and deported for merely attending a religious meeting of Jehovah’s Witnesses.
  2. Article 48 of the Constitution of Azerbaijan maintains: “**Everyone has the right to define his/her attitude to religion, to profess, individually or together with others, any religion . . . and spread one’s beliefs concerning religion.**”
  3. The General Comment 15 by the United Nations Human Rights Committee under the ICCPR, ad §7 states: “**Aliens receive the benefit of the right of peaceful assembly and of freedom of association. (…) There shall be no discrimination between aliens and citizens in the application of these rights. These rights of aliens may be qualified only by such limitations as may be lawfully imposed under the Covenant.**”

**Key Recommendation of the Venice Commission Opinion 681/2012 on the Law on Freedom of Religious Beliefs in Azerbaijan**

(…) D. to explicitly allow proper proselytism and remove from Article 1 par. 4 the prohibition on religious propagation by foreigners and persons without citizenship

* 1. **Lokbatan**. As an example, on 9 April 2015 approximately ten police officers raided a peaceful religious meeting in the home of Rovshan Mursalov. The police confiscated personal belongings, such as mobile phones, tablets, Bibles, and religious literature. The police took fourteen people to the police station for questioning.
  2. In a closed hearing on 6 July 2015 the Baku Garadagh District Court convicted Goderdzi Kvaratskhelia, a Georgian citizen, under Article 300 of the AVC. He was then deported to Georgia. At hearings conducted on 8 and 9 July 2015 the same court convicted all the others under Article 299.0.2 of the AVC and gave them official warnings.

## Conscientious Objection

* 1. Article 76(2) of the Constitution of Azerbaijan provides for alternative service rather than regular military service where one’s religious beliefs conflict with military service. However, there is no legislation in force to establish a mechanism for the Constitution’s provision of alternative service.
  2. The Committee has repeatedly held that the right to conscientious objection to military service is protected by Article 18, paragraph 1, of the Covenant (see *inter alia Zafar Abdullayev v. Turkmenistan*, Communication No. 2218/2012, Views adopted 25 March 2015)
  3. Despite its constitution and international obligations, Azerbaijan continues to harass, prosecute, and imprison individuals whose deeply held religious convictions do not allow them to engage in military service.
  4. On 16 July 2010 the Nisami District Court sentenced 22-year-old Farid Mammadov to nine months of imprisonment although he was ready and willing to perform alternative civilian service that is not under military control. Another example in on 23 July 2012 the State Service for Mobilization and Conscription forcibly took conscientious objector, Amid Zohrabov, to a military post. For fifteen days Amid was deprived of his liberty and unlawfully confined against his will, even though he had not been convicted of any crime and that he was also ready and willing to perform alternative civilian service that is not under military control.
  5. Fakhraddin Mirzayev, aged 19, was summoned for military service on 6 March 2012 by the State Service for Mobilization and Conscription (SSMC). He reported as requested. On 24 April 2012 he wrote to the SSMC explaining his conscientious objection to military service on the basis of his Scriptural beliefs and requested alternative service on the basis of Article 76(2) of the Constitution of Azerbaijan. Fakhraddin hand-delivered his written statement and verbally explained to officials why he would not serve in the military.
  6. On 25 June 2012 the Ganja City Prosecutor’s Office initiated a criminal case against Fakhraddin, charging him under Article 321.1 of the Criminal Code, which forbids “evasion without lawful grounds from the next appeal on military service or from an appeal on mobilization, with the purpose of evasion from serving in the military.” On 25 September 2012 Fakhraddin received a one-year prison sentence that was effective immediately. This was the first criminal prosecution of a Witness conscientious objector in Azerbaijan since Farid Mammadov was convicted in September 2010. Others were investigated, but their cases were never referred to court.
  7. On 12 March 2013 Kamran Mirzayev was criminally convicted and sentenced to nine months of imprisonment. He was released from prison after three months as a result of a general amnesty. The courts held there is a law for alternative service but that it is not in force. Like the other conscientious objectors that have been convicted, he has applied to the European Court of Human Rights (ECHR).

# PENDING COMPLAINTS BEFORE THE INTERNATIONAL COURTS AND BODIES

***ECHR PENDING APPLICATIONS***

|  |  |
| --- | --- |
| Police Raid | 5 |
| Reregistration | 1 |
| Manifesting Religious Belief | 3 |
| Censorship | 5 |
| Deportation | 3 |
| Conscientious Objection | 4 |
| **Total** | **21** |

## European Court of Human Rights

* 1. A number of cases have been filed with the ECHR. Hereafter is a list updated on 8 August 2015 of the pending applications related to various issues that Jehovah’s Witnesses are facing listed by date of filing.

## Human Rights Committee

* 1. As explained above in paragraphs 39-45, a complaint and request for interim measures was filed with the Committee concerning the case of Ms. Zakharchenko. Interim measures were granted on 3 December 2015 and the case has been communicated to Azerbaijan (*Irina Zakharchenko v. Azerbaijan*, Communication 2696/2015**.**

1. **CONCLUSIONS AND RECOMMENDATIONS**

Jehovah’s Witnesses in Azerbaijan and as a worldwide organization express concern for human rights violations as outlined above. They respectfully request Azerbaijan to:

1. Stop arresting and convicting Jehovah Witnesses to prison terms and fines for participating in peaceful religious activity.
2. Provide reregistration to the religious community of Jehovah’s Witnesses in Baku and other cities.
3. Protect the right to profess one’s religious beliefs individually or jointly with others.
4. Prevent further illegal interference from the police authorities with the peaceful exercise of the freedom of religion and freedom of assembly.
5. Provide acceptable alternative civilian service for conscientious objectors.
6. Allow importation of Bible literature without censorship.
7. Stop deporting and arresting foreign citizens who peacefully assemble for religious meetings.
8. Rescind the deportation orders against Jehovah’s Witnesses already illegally deported from Azerbaijan.
   1. The EAJCW will consider submitting an additional complementary report with the Committee following the adoption of the List of Issues.