



AS/Mon(2009)26 rev.

23 June 2009

amondoc26r_2009

Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)

Honouring of obligations and commitments by Azerbaijan

Information note by the co-rapporteurs on recent developments in Azerbaijan¹

Co-rapporteurs: Mr Andres HERKEL, Estonia, Group of the European People's Party, and Mrs Evguenia JIVKOVA, Bulgaria, Socialist Group

¹ This information note has been made public by decision of the Monitoring Committee dated 23 June 2009.

1. On 19 June 2009, the Parliament of Azerbaijan planned to vote a package of amendments to five laws including the Law on Non-governmental Organisations (Public Associations and Foundations) (hereinafter NGO Law)².
2. The Law on NGOs, if amended as initially planned, would restrict freedom of assembly and of expression in Azerbaijan and threaten the development of the civil society in Azerbaijan in breach of Articles 10 and 11 of the European Convention of Human Rights and other relevant European democratic standards, namely as regards:
 - the considerable complication of the registration procedure;
 - the administrative limitation of the geographical area of activities of the non-governmental organisations;
 - the restriction of international activity;
 - the limitation and strict regulation of financial activities and the independence of non-governmental organisations.
3. The proposed amendments also include changes to the Law on Mass Media and to the Law on State Fees. The drafting of the amendments of the Law on Mass Media is crucial for the functioning of democracy in Azerbaijan and should be carefully prepared in line with the country's commitments in this regard.
4. The draft amendments to the above-mentioned laws were put on the agenda of the Milli Mejlis in a hurry and without any prior debate or consultation with the civil society itself or international organisations. This unexpected and unilateral action gave rise to prompt reactions from the Azerbaijani civil society, as well as most international organisations.
5. On 16 June 2009, the President of the Parliamentary Assembly, the President of the Committee of Ministers and the Secretary General of the Council of Europe made a joint declaration³ in which they raised their concern about some of the proposed changes to the legislation regulating non-governmental organisations and media in Azerbaijan, called on the authorities to postpone the decision on the proposed amendments and offered the Council of Europe's assistance in order to ensure that any changes will be in line with the Council of Europe standards of democracy and human rights.
6. On 11 June 2009, representatives of 50 national NGOs gathered together to establish the Defence Committee of NGOs in Azerbaijan. The Committee has established a working group composed of some NGO representatives whose main aim is to deal with the proposed amendments to the Law on NGOs and Public Unions.
7. On 12 June 2009, this working group held a press conference to provide the media and the public with detailed information about the proposed amendments to the law and their planned activities. The NGOs Defence Committee is conducting a series of public debates, round-tables and seminars on the issue. They are planning to apply to the public TV and private TV channels to conduct TV debates on the issue. The Committee has also sent letters to the President of the Republic and the Parliament with the request not to adopt and put into force the proposed amendments. The NGOs were also planning to conduct a protest action in front of the Parliament on 19 June 2009, but the Baku Mayor Office refused to authorise their rally.
8. On 19 June 2009, the Milli Mejlis decided to postpone the debate to 30 June next.
9. We recall that Azerbaijan has already adopted constitutional amendments through a referendum conducted in a hurry last March, without prior consultation with the Council of Europe, and that the opinion of the European Commission for Democracy through Law (Venice Commission) on these amendments highlighted shortcomings and contradictions with European standards.
10. Furthermore, on 8 May 2009, at its plenary session, the Milli Mejlis discussed and adopted amendments to the Law on Freedom of Religion. The changes adopted include notably the obligation for all religious communities to re-register by 1 September. The changes further foresee the possibility to refuse registration of a community, and the possibility to annul a registration. Also, a religious community can only function on the address noted in the registration. We fear that the strengthening of state control over religion might give rise to restrictions on the exercise of the freedom of religion which are not in line with Article 9 of the European Convention of Human Rights and regret that the expertise of the Council of Europe has once again not been sought in advance.

² The four other laws are the Law on Mass Media, the Law on Grants, the Law on State Fees and the Code of Administrative Offences.

³ The joint declaration is presented in the appendix.

11. We firmly remind to Azerbaijan of its obligations and commitments as a member state of the Council of Europe and urge the authorities to remain on the track of democratic reforms. We call on the Azerbaijani Parliament to postpone the adoption of the package amending the legislation on NGOs and reconsider it in close cooperation with the Council of Europe and the Venice Commission.

12. We invite the Monitoring Committee to send both the already adopted amendments on the Law on Freedom of Religion and the whole package of amendments to the legislation on NGOs for review by the Venice Commission.

APPENDIX

Council of Europe concerned about changes to media and NGO legislation in Azerbaijan

Strasbourg, 16.06.2009 - We are very concerned about some of the proposed changes to the legislation regulating non-governmental organisations and media in Azerbaijan. Amendments as proposed, which will be reportedly submitted for parliamentary decision this Friday, may create serious obstacles for the freedom of expression and normal functioning of the civil society in Azerbaijan. They may even lead to the closing of the Council of Europe School of Political Studies in Baku.

We therefore call on the authorities to postpone the decision on the proposed amendments. The Council of Europe is ready to provide assistance in order to ensure that any changes will be in line with the Council of Europe standards of democracy and human rights.

Samuel Žbogar, Minister of Foreign Affairs of Slovenia and Chairman-in-office of the Committee of Ministers of the Council of Europe

Lluís Maria de Puig, President of the Parliamentary Assembly of the Council of Europe

Terry Davis, Secretary General of the Council of Europe