

8 June 2011

AZERBAIJAN: Communities to be forced to begin re-registration again?

By Felix Corley, Forum 18

Many of Azerbaijan's religious communities, whose re-registration applications have not been answered since the end of 2009, fear that the proposed raising of the required number of adult founders from 10 to 50 could see their current applications rejected, Forum 18 News Service has learned. The latest restriction on freedom of religion or belief is contained with other restrictive Religion Law draft amendments to be considered in Parliament on 10 June. Officials have given contradictory views on whether the increase in founders will be applied retroactively. This will be the 13th time that the 1992 Religion Law has been amended. Many communities fear that their intent is to force them to re-apply again, giving more opportunities for officials to impose pressure on communities and stop them gaining legal status. The Council of Europe's European Commission against Racism and Intolerance (ECRI) has described restrictions in the Religion Law on spreading one's faith and on religious literature as "incompatible with the case-law of the European Court of Human Rights". ECRI was also highly critical of the re-registration system.

Many of Azerbaijan's religious communities, whose re-registration applications have not been answered since submission before the end of 2009, fear that the proposed raising of the required number of adult founders from 10 to 50 could see their current applications rejected, Forum 18 News Service has learned. The increase in the number of founders is contained with other restrictive proposed amendments to the Religion Law. They are due for consideration in the full Milli Mejlis (Parliament) on 10 June. Officials and legal experts have given contradictory views on whether the increase in founders will be applied retroactively. One official told Forum 18 the issue might be resolved in the Constitutional Court.

This will be the 13th time that the 1992 Religion Law has been amended. Amendments have made major changes and frequently been prepared in conditions of secrecy and presented without prior notice. The latest draft Religion Law amendments gained preliminary approval in the Milli Mejlis Human Rights Committee on 31 May (see F18News 6 June 2011 http://www.forum18.org/Archive.php?article_id=1576).

Many communities have expressed fears to Forum 18 that the new amendments are a covert way of requiring those still waiting for re-registration to begin the entire process again, offering more opportunities for officials to impose pressure on communities and stop them gaining legal status. A senior member of a religious community, who wished to remain anonymous for fear of state reprisals, told Forum 18 that this was "undoubtedly" one of the aims of the amendments.

The cumbersome and time-consuming process currently includes gathering founders, holding formal meetings, notarising the documentation and submitting it to the State Committee for Work with Religious Organisations again (see F18News 7 April 2011 http://www.forum18.org/Archive.php?article_id=1559).

Re-registration

Unregistered religious activity is banned, in defiance of Azerbaijan's international human rights commitments. So many communities see gaining re-registration as crucial for their activities. Police raids, including the use of riot police, have been among the measures used against Muslim, Protestant, and Jehovah's Witness communities the authorities dislike (see F18News 8 April 2011 http://www.forum18.org/Archive.php?article_id=1560).

Many non-Muslim communities will struggle to find 50 adults to present their identity documents with a registration application. The head of the Registration Department at the State Committee, Yusif Askerov, recognised to Forum 18 that the new number is "a lot" and claimed it is still being discussed (see F18News 6 June 2011 http://www.forum18.org/Archive.php?article_id=1576).

Askerov of the State Committee also admitted that a Council of Europe European Commission against Racism and Intolerance (ECRI) report was "very critical" of the Committee's long delays in re-registration. He told Forum 18 on 6 June that the State Committee leadership will discuss the report and will prepare its conclusion to it "this week" (see below).

Retroactive force in practice?

The 2009 Religion Law amendments imposed among other things a compulsory re-registration requirement for all religious communities (see F18News 3 June 2009 http://www.forum18.org/Archive.php?article_id=1305). Extra restrictions were also imposed on Muslims only (see F18News 22 July 2009 http://www.forum18.org/Archive.php?article_id=1330). But the current Religion Law amendments do not specify such a compulsory re-registration requirement.

However, religious communities have told Forum 18 of their fears that State Committee officials will reject re-registration applications lodged before the 31 December 2009 deadline, simply because of the lack of 50 founders.

"The increase in the number of required founders shouldn't have retroactive force," Rabiyyat Aslanova, chair of the Milli Mejlis Human Rights Committee, told Forum 18 from the capital Baku on 4 June. However, she readily acknowledged that the State Committee had failed to handle the re-registration applications properly and in line with the law. "I'll speak up about the re-registration delays when the amendments are discussed in the full parliament."

Deputy does not trust State Committee

As the State Committee has not re-registered many religious communities which had lodged applications in 2009, Forum 18 asked deputy Aslanova whether she trusted the State Committee not to use the increased number of founders as an excuse to reject existing applications. She responded: "No."

Asked whether she believes the State Committee should be allowed to continue, she responded: "I'm in favour of their abolition." However, she did not say whether she intends to take any action to achieve this.

Constitutional Court guidance?

One Baku-based legal expert, who asked not to be identified, stated that laws should not have retroactive force. "I don't know what officials will say in this case, but it wouldn't be correct for officials to ask religious communities which have already applied for re-registration to submit new applications," the legal expert told Forum 18 from Baku on 6 June.

Askerov of the State Committee – which handles registration applications – told Forum 18 that once the amendments are adopted, his Committee will have to decide how to apply the new provisions. "For communities which lodged their applications a long time ago, we will have to go to the Constitutional Court to seek guidance on whether the new provisions apply to the communities which have already applied for registration."

Azerbaijan's Constitution gives the Constitutional Court the obligation to interpret laws if requested to do so by the President or state bodies.

Waiting, waiting

The re-registration process was due to be completed by the end of 2009. However, even State Committee officials have acknowledged that several hundred communities which applied in late 2009 are still waiting for a response. Among them are many Muslim communities and almost all Protestant churches, as well as Catholics and the Jehovah's Witnesses. Many communities have complained to Forum 18 of the "torturous" nature of the re-registration process (see F18News 7 April 2011 http://www.forum18.org/Archive.php?article_id=1559).

As of the middle of the working day in Baku on 8 June, only 510 communities (493 Muslim and 17 of other faiths) were listed on the State Committee website as having gained re-registration. No religious communities are known to have been registered or re-registered since 8 December 2010.

Askerov, head of the State Committee's Registration Department, rejected fierce criticism by many religious communities of what they see as the State Committee's arbitrary refusal to consider their applications. "Those that didn't get registration are the ones with inadequacies in their applications," he insisted to Forum 18. "As soon as these are corrected they will get registration. I guarantee that 90 per cent of those who applied for re-registration back in 2009 will get it. Re-registration will speed up."

He declined to say why no religious communities have been registered or re-registered in the six months since 8 December 2010, or why he thinks only 90 per cent of the communities that applied for re-registration will get it. Askerov gave no timescale for this, although he has previously claimed a fresh batch of communities would be re-registered in April. This has not happened (see F18News 7 April 2011 http://www.forum18.org/Archive.php?article_id=1559).

Askerov stressed that the previous registration certificates of communities which are still awaiting registration remain valid. He denied that currently registered communities who have applied for re-registration are vulnerable to police raids.

However, this is not what religious communities in this situation have experienced. They remain vulnerable to official threats, police

raids and possible fines. The State Committee representative in Azerbaijan's second city Gyanja [Gäncä] ordered three religious communities which did not have legal status to close in March. One, Star of the East Pentecostal Church, was visited by two bus loads of riot police and ordinary police to stop them meeting for worship (see F18News 8 April 2011 http://www.forum18.org/Archive.php?article_id=1560). Also, the only Sunni mosque in the city was forcibly closed by the state (see F18News 5 April 2011 http://www.forum18.org/Archive.php?article_id=1558).

Catholic Agreement, but no registration yet

Among the many religious communities whose registration application has not been dealt with since 2009 is the small Catholic community. However, on 29 April the Holy See's nuncio to Azerbaijan, Archbishop Claudio Gugerotti, and Hidayat Orujev, chair of the State Committee, signed an Agreement between the two sides to regulate the legal status of the Catholic community in Azerbaijan, the Holy See announced the following day.

The Agreement was ratified by the Milli Mejlis on 27 May, the APA news agency reported that day. The Agreement is awaiting final approval on the Azerbaijani side by President Ilham Aliyev. Only when both sides have approved it will it come into force and be published.

The Agreement covers the Catholic Church in Azerbaijan as a whole, not just the one parish in Baku. It will regulate the right of the Church to hold public worship and other activities, teach the faith and send priests to minister to the community (there are no native Azerbaijani priests).

However, the Agreement does not exempt the Catholic community from requiring registration of its statutes with the State Committee, while priests and nuns will still require visas and work permits.

Restrictions "incompatible" with European Court of Human Rights case law

The latest Religion Law amendments were initially adopted by Parliament's Human Rights Committee on 31 May (see F18News 6 June 2011 http://www.forum18.org/Archive.php?article_id=1576). This was the same day a highly-critical report by the Council of Europe's European Commission against Racism and Intolerance (ECRI) was made public in Azeri, English and French (see http://www.coe.int/t/dghl/monitoring/ecri/Library/PressReleases/86-31_05_2011_Azerbaijan_en.asp). ECRI is made up of representatives of all 47 Council of Europe member countries, including Azerbaijan.

ECRI complained that restrictions in the Religion Law on spreading one's faith and on religious literature are "incompatible with the case-law of the European Court of Human Rights".

"ECRI strongly recommends that the Azerbaijani authorities bring the legislation in force in matters of freedom of religion into line with the requirements of the European Convention on Human Rights, taking account of the relevant case-law of the European Court of Human Rights."

ECRI was also highly critical of the re-registration process, which was due to have been completed by the end of 2009 but which has left hundreds of religious communities languishing without any response to their applications. It particularly noted that this was the third time since independence in 1991 that such re-registration had been demanded. It complained that the "repetitive implementation of such procedures places a heavy administrative burden" on religious communities.

"ECRI strongly recommends that the Azerbaijani authorities swiftly complete the procedure for the registration of religious communities currently under way, taking into account the case-law of the European Court of Human Rights," the report noted.

It described it as "essential" to clarify the legal situation of communities still awaiting a final response from the State Committee or the courts, "particularly by clearly specifying that those already registered under the previous legislation must be able to continue to function normally during the transitional period".

Some religious communities are prepared if necessary to take re-registration cases to the European Court in Strasbourg (ECtHR) (see F18News 7 April 2011 http://www.forum18.org/Archive.php?article_id=1559). Similarly the Jehovah's Witnesses are also prepared if necessary to take cases of the imprisonment of conscientious objectors to military service to the ECtHR (see F18News 22 February 2011 http://www.forum18.org/Archive.php?article_id=1544).

Will government implement ECRI recommendations?

Askerov of the State Committee's Registration Department said he had examined the ECRI report. "We have seen critical reports earlier, but not so harsh as this one," he told Forum 18. "It is a serious issue. For the State Committee the main criticism is of the registration delay."

Insisting that the response to the report will have to come from the State Committee leadership, Askerov said discussions in the

Committee will take place "this week". He declined to speculate on how the State Committee might respond to the report and whether it will change its practices or not.

Rovshan Ismayilov, Professor of Constitutional Law at Baku State University, who serves as the member from Azerbaijan on ECRI, commended the report. "I serve on ECRI in a personal capacity, not as a government representative," he stressed to Forum 18 on 4 June. "I hope the government will take seriously all the report's recommendations, including on freedom of religion. The recommendations are very clear."

On the difficulties many religious communities have faced gaining re-registration, Ismayilov said ECRI had been "quite right when it referred to the case-law of the European Court of Human Rights – the government should bear the court's rulings on religious freedom in mind".

Ismayilov urged religious communities whose rights might have been violated to take their cases through the local courts and, if they are still unsatisfied, to the ECtHR in Strasbourg.

However, parliamentary deputy Aslanova said she had read the ECRI report and rejected it outright. "I'm very much against this report," she told Forum 18. "Azerbaijan is a very tolerant country. We ratified the European Convention on Human Rights and we work in accordance with its principles." (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at http://www.forum18.org/Archive.php?article_id=1192.

More coverage of freedom of thought, conscience and belief in Azerbaijan is at <http://www.forum18.org/Archive.php?query=&religion=all&country=23>.

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.

For a personal commentary, by an Azeri Protestant, on how the international community can help establish religious freedom in Azerbaijan, see http://www.forum18.org/Archive.php?article_id=482.

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

If you need to contact F18News, please email us at:
f18news @ editor.forum18.org

Forum 18
Postboks 6603
Rodeløkka
N-0502 Oslo
NORWAY