

Azerbaijan: Legislative Amendments Raise Alarm

9 November 2017

The Azerbaijani government's proposed amendments to the Code of Civil and Administrative Procedure and the Bar Act were approved by parliament on 31 October 2017. The amendments, which were first proposed on 17 October, were initially rejected at first reading by the national parliament. However, the fact that they have now been approved causes serious concern about the lack of legislative transparency and the real motivation behind them.

According to the bill, practicing lawyers who are not yet members of the Bar Association will be prohibited from appearing in court, or representing clients in any kind of lawsuit. Only affiliated Bar members will have the right to appear in court and represent clients.

Earlier in October, in response to the draft bill, a group of lawyers set up a campaign group entitled "Group of Practicing Lawyers" to denounce the amendments that would significantly restrict the work and activities of independent lawyers in Azerbaijan.

The group identified three types of legal representation in Azerbaijan: bar lawyers, non-bar lawyers, and practitioners, and argued that, if approved, the bill would prevent the few lawyers working on political and religious cases from participating in court proceedings or legal representation of any kind.

In Azerbaijan, only bar members are allowed to plead in the Supreme and Constitutional Courts. Although non-bar lawyers were previously not allowed to defend criminal suspects or represent people accused of quasi-criminal regulatory offenses they were allowed to represent clients in civil court cases and administrative disputes provided that they had notarized power of attorney. As of today, this will no longer be the case.

In the context of Azerbaijan where basic human rights and freedoms are frequently violated, where there are severe restrictions on freedom of the press and freedom of expression and where the number of political prisoners is on the rise, the proposed bill is a clear sign of the continuing downward trend.

The Azerbaijan Bar Association, which is closely tied to and influenced by the government, has limited the bar to only 934 lawyers, most of whom refuse to take politically sensitive cases. This situation attests to the government's disregard of fair trial standards in cases of political and religious prisoners, as well as the ability of Azerbaijani citizens to find affordable and adequate legal representation.

In August 2014 Azerbaijan's leading human rights lawyer, Intigam Aliyev, was imprisoned. He was sentenced to seven and a half years on bogus charges in April 2015. Although he was released in March 2016, other independent lawyers face travel bans and have had their bank accounts frozen. The Bar Association is notorious

for disbaring, or bringing disciplinary measures for alleged violations of “rules of ethics” against those of its members who have taken on political cases.

For example, Khalid Bagirov, an independent lawyer who has represented several prominent political prisoners, was disbarred following a complaint by the Sheki Court of Appeals to the Bar Association. Bagirov believes his disbarment was directly linked to him defending popular political opposition leader Ilgar Mammadov, who was imprisoned in 2013 and remains behind bars despite a ruling of the European Court of Human Rights saying he should be immediately and unconditionally released.

Other prominent lawyers who have been disbarred in a similar fashion include Elchin Namazov, Farhad Mehdiyev, Aslan Ismayilov, Muzaffar Bakhishov and Alaif Hasanov. Lawyers currently facing disbarment include Yalchin Imanov who is accused of “unethical behavior” in court. Pressure against Yalchin Imanov increased after he shared cases of torture against religious prisoners. The disciplinary commission of the Bar Association is also reviewing lawyer Elchin Sadigov after a judge of Sheki Grave Crimes Court claimed that he purposefully interrupted court proceedings in the hearing against journalist Elchin Ismayilli [Elchin Ismayilli was sentenced to nine years’ imprisonment in September].

The proposed amendments directly contravene Azerbaijan’s international human rights obligations and we urge the parliament and government of Azerbaijan to repeal them as they would severely hinder the functioning of independent lawyers as set out in the UN Basic Principles on the Role of Lawyers, and the right to fair trial in the country. The proposed changes threaten both the independence of the legislative branch from the executive and the independence of the legal profession. As a signatory to the International Covenant on Civil and Political Rights and the European Convention on Human Rights, the government of Azerbaijan must respect the premises of both conventions and guarantee that lawyers are able to carry out their professional activities unimpeded.

Signatory organizations:

1. Armenian Helsinki Association (Armenia)
2. Article 19 (UK)
3. Austrian Helsinki Association (Austria)
4. Bir Duino (Kyrgyzstan)
5. Center for Civil Liberties (Ukraine)
6. Center for Participation and Development (Georgia)
7. Centre for the Development of Democracy and Human Rights (Russia)
8. Citizens’ Watch (Russia)
9. Civil Rights Defenders (Sweden)
10. Crimea SOS (Ukraine)
11. Crude Accountability (USA)
12. Fair Trials (UK)
13. Freedom Files (Poland)
14. Freedom House (United States)
15. Freedom Now (USA)
16. Human Rights Center (Azerbaijan)
17. Human Rights Club (Azerbaijan)
18. Human Rights Information Center (Ukraine)
19. Human Rights Monitoring Institute (Lithuania)
20. Humanrights.ch (Switzerland)
21. Institute for Reporters Freedom and Safety (Azerbaijan)
22. International Partnership for Human Rights (Belgium)
23. Kazakhstan International Bureau for Human Rights and the Rule of Law (Kazakhstan)
24. Legal Policy Research Centre (Belarus)
25. Legal Transformation Center (Belarus)

26. Macedonian Helsinki Committee (Macedonia)
27. Moscow Helsinki Group (Russia)
28. Norwegian Helsinki Committee (Norway)
29. Pen International
30. Polish Helsinki Foundation for Human Rights (Poland)
31. Public Association "Dignity" (Kazakhstan)
32. Public Verdict Foundation (Russia)
33. Regional Center for Strategic Studies (Georgia/Azerbaijan)
34. Swiss Helsinki Committee (Switzerland)
35. The Barys Zvozkau Belarusian Human Rights House (Belarus)
36. The Netherlands Helsinki Committee (The Netherlands)
37. The World Organisation Against Torture (OMCT)
38. Truth Hounds (Ukraine/Georgia)
39. Women of the Don (Russia)

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