

STATEMENT AND ANALYSIS:

Azerbaijan President Changes “Law On Mass Media,” Including Parts of Law that Don’t Exist Because They Were Removed at International Community’s Request



Institute for Reporters’ Freedom and Safety

9 May 2008

INSTITUTE FOR REPORTERS' FREEDOM AND SAFETY STATEMENT**9 May 2008****Baku, Azerbaijan**

The Institute for Reporters' Freedom and Safety condemns Republic of Azerbaijan President Ilham Aliyev's 7 May 2008 decree. In the decree, President Aliyev, in a roundabout manner (by circumventing the Milli Mejlis and instead making changes to a relevant presidential decree), has amended and added to the law "On Mass Media," including a part that was abolished years ago at the demand of international organizations.

President Ilham Aliyev's decree refers to part 10 of Article 19 of the "Law on Mass Media." However, as Article 19 currently stands it has no part 10. Article 19, which is on the "Suspension of production and distribution of mass media or their termination," simply reads that "the production and propagation of mass media can be temporarily suspended or ceased only through a court decision or a decision of the mass media institution's founder."

However, prior to adoption of the new version of the law "On Mass Media" by the Milli Mejlis on 28 December 2001, this law did have a piece 10, and it read: *The appropriate executive administration organ:*

- 1) *if periodical press publications do not fulfill the demands in the fifth paragraph of Article 3 of this law;*
- 2) *if information or calls are published (or put on the air) that damage the country's territorial integrity, security or public order, including pornographic material*

- 3) *if it is determined that a mass media institution is funded in contradiction with the law by a government structure of a foreign country or a physical and legal person;*
- 4) *if within one year a mass media institution is brought to responsibility for writing a biased article three times; can put forth a claim in the court for cessation of the production and dissemination of this mass media.*

President Aliyev's decree is intended to, as we noted above – through circuitous means, solidify exactly who this appropriate executive administration organ is. For point 1 Aliyev authorizes the Press Council, for point 2 he authorizes the Ministry of National Security and Ministry of Interior, and for points 3 and 4 he authorizes the Justice Ministry.

In addition to this, President Aliyev's 7 May decree also makes two changes to legislation that does still exist. Regarding Article 52 of the law "On Mass Media," Aliyev authorizes Azerbaijan's Ministry of Communication and Information Technology to grant permission for the distribution of foreign periodicals, including journals and newspapers, if there is not already an appropriate existing intergovernmental agreement. And, regarding Article 29 of the law "On Mass Media," the decree has now determined that in addition to the founder (of the newspaper), state archives, National Library, Book Chamber, library of statutory organs and appropriate organs of the executive authority, free copies of every edition of every periodical published must also now be sent to the Republic of Azerbaijan's Ministry of National Security, Republic of Azerbaijan's Ministry of Interior, Republic of Azerbaijan's Ministry of Economic Development, and Republic of Azerbaijan's Ministry of Communication and Information Technology.

In light of what is written above, the Institute for Reporters' Freedom and Safety, calls for President Ilham Aliyev to rescind this decree and completely remove the part of the decree that refers to legislation that is no longer exists. In addition, IRFS calls for the government official responsible for this egregious error, whether knowingly or by mistake, to be dismissed from his/her job.

IRFS ANALYSIS: AZERBAIJAN PRESIDENT CHANGES “LAW ON MASS MEDIA” INCLUDING PARTS OF LAW THE DON'T EXIST BECAUSE THEY WERE REMOVED AT INTERNATIONAL COMMUNITY'S REQUEST

9 May 2008

Baku, Azerbaijan

<p style="text-align: center;">Parts of Republic of Azerbaijan's Law "On Mass Media" affected by President's 7 May 2008 decree</p> <p style="text-align: center;"><i>(the application of this law began with acceptance of the 8 February 2000 presidential decree, and then the 7 May 2008 presidential decree changed and added to the law)</i></p>	<p style="text-align: center;">Republic of Azerbaijan President's Decree 277 of 8 February 2000 "On application of the Republic of Azerbaijan law 'On Mass Media'"</p> <p style="text-align: center;"><i>(the decree being changed and edited by the 7 May 2008 presidential decree, which subsequently affects the law "On Mass Media")</i></p>	<p style="text-align: center;">7 May 2008 Presidential Decree of Republic of Azerbaijan President's on changes and additions to the Republic of Azerbaijan President's Decree 277 of 8 February 2000 "On application of the Republic of Azerbaijan's law 'On Mass Media'"</p>	<h2 style="text-align: center;">What do these changes mean?</h2>
<p>Article 19. Suspension of production and distribution of mass media or their termination</p> <p>The production and propagation of mass media can be temporarily suspended or ceased only through a court decision or a decision of the mass media institution's founder.</p> <p>Article 29. Obligatory copies</p>	<p>On application of the Republic of Azerbaijan's Law "On Mass Media"</p> <p style="text-align: center;">DECREE OF THE REPUBLIC OF AZERBAIJAN'S PRESIDENT</p> <p>In connection with the going into effect of the Republic of Azerbaijan Law "On Mass Media," with the goal of ensuring application of this Law, I have decided:</p>	<p>1. Make the changes and additions shown below to point 2 of the Republic of Azerbaijan President's Decree 277 of 8 February 2000 on the application of the Republic of Azerbaijan's law "On Mass Media" (Azerbaijan Republic legislation collection, year 2000, No. 2, Article 92, year 2003, No. 10, Article 585, year 2004, No. 1, Article 24).</p> <p>1.1 In the second paragraph replace the words "and the</p>	

<p>Free obligatory copies of periodical press publications shall be sent by the publishing house, in the first version published, to the founder, state archives, National Library, Book Chamber, library of statutory organs and appropriate organs of the executive authority.</p> <p>Article 52. Dissemination of information received from foreign sources</p> <p>The citizens of the Azerbaijan Republic, including mass media, have the right to obtain direct information from foreign sources.</p> <p>The limitation of direct acceptance of the television programs is possible in cases encompassed in intergovernmental agreements contracted by the Azerbaijan Republic.</p> <p>In the event that the order of the distribution of foreign periodic print publications of which the founder or constant place of editorial office are outside the</p>	<p>1. The Republic of Azerbaijan's Cabinet of Ministers is ordered to within two months: introduce to the president recommendations to harmonize legislative acts that are in effect with the Republic of Azerbaijan Law "On Mass Media;"</p> <p>The Cabinet of Ministers and relevant central executive administration organs provide for the harmonization normative legal acts with this law, and inform the President of the Republic of Azerbaijan about this;</p> <p>Prepare a bill determining the types of responsibility for violation of the Republic of Azerbaijan's Law "On Mass Media," and present this to the President of the Republic of Azerbaijan;</p> <p>(removedⁱ) (removedⁱⁱⁱ)</p> <p>To, within their own power, resolve any other matters that arise out of the Republic of Azerbaijan Law "On Mass Media."</p> <p>2. Determine that: The statement "the</p>	<p>Republic of Azerbaijan Press and Information Ministry" with the words "Republic of Azerbaijan's Ministry of National Security, Republic of Azerbaijan's Ministry of Interior, Republic of Azerbaijan's Ministry of Economic Development, Republic of Azerbaijan's Ministry of Communication and Information Technology." (IRFS: this item relates to Article 29 of the law "On Mass Media")</p> <p>1.2 In the fourth paragraph make the editing shown below: "powers of 'the appropriate executive administration organs' implied in part 10 of Article 19 of the same law be the power of Azerbaijan's Press Council for the first point, the power of the Republic of Azerbaijan's Ministry of Interior and Republic of Azerbaijan's Ministry of National Security for the second point, and be realized by the Republic of Azerbaijan's Ministry of Justice for points 3 and 4."</p> <p>1.3 The content shown below be added as the fifth paragraph, and the fifth paragraph be</p>	<p>Republic of Azerbaijan's Ministry of Communication and Information Technology. While it is true that the words "and the Republic of Azerbaijan Press and Information Ministry" are not in the current law "On Mass Media," President Aliyev's decree is making changes to the 8 February 2000 decree where this phrase remains.</p> <p>Item 1.2 gives Azerbaijan's Press Council, the Republic of Azerbaijan's Ministry of Interior and Republic of Azerbaijan's Ministry of National Security, and the Republic of Azerbaijan's Ministry of Justice the power to in certain situations appeal to court for the closure mass media, however Part 10 of Article 19, where these changes are to be made, does not exist. This part and other parts of this law were removed at the demand of the international community through a 28 December 2001 law adopted by the Milli Mejlis.</p> <p>Item 1.3 means that for the distribution of foreign</p>
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<p>borders of the Azerbaijan Republic is sought and this matter is not established by the intergovernmental agreement contracted by the Azerbaijan Republic, approval must be obtained from the appropriate organ of the executive authority.</p>	<p>libraries of appropriate executive administration organs” in Article 29 of the Republic of Azerbaijan Law “On Mass Media,” imply the libraries of the Republic of Azerbaijan President Executive Administration, Republic of Azerbaijan Cabinet of Ministers’ Works Department, Republic of Azerbaijan Justice Ministry and Republic of Azerbaijan Press and Information Ministry;ⁱⁱⁱ (removed^{iv}) the powers of the “appropriate executive administration organs” in part 10 of Article 19 and part 3 of Article 52 of this law be realized by the Republic of Azerbaijan’s Press and Information Ministry;^v the powers of the “appropriate executive administration organs” in parts 2 and 3 of Article 53 of this law be realized by the Republic of Azerbaijan Ministry of Foreign Affairs.</p> <p>Azerbaijan Republic President HEYDAR ALIYEV Baku City, 8 February 2000 No. 277</p>	<p>considered the six paragraph: “powers of ‘the appropriate executive administration organs’ implied in part 3 of Article 52 the same law be realized by the Republic of Azerbaijan’s Ministry of Communication and Information Technology.”</p> <p>2. This decree goes into effect on the day it is published.</p> <p style="text-align: right;">Ilham ALIYEV Azerbaijan Republic President Baku City, 7 May 2008</p>	<p>periodicals, including journals and newspapers, approval must be obtained from the Republic of Azerbaijan’s Ministry of Communication and Information Technology if there is not already an appropriate existing intergovernmental agreement.</p>
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ⁱ Through Decree #980, dated 23 October 2003, the fifth paragraph of point 1 was removed. This paragraph read, “recommendations about the type of operation for which a special agreement (license) is demanded, which arise out of provisions of Article 38 of this law and the executive administration organ that will give the special agreement (license) be presented to the President of the Republic of Azerbaijan.”

ⁱⁱ Through Decree #18, dated 29 January 2004, the fifth and sixth paragraphs of point 1 were removed. These paragraphs read, “recommendations regarding the executive administration organ to realize the powers of the ‘the executive administration organ’ referred to in this law in the second sentence of the second part of Article 19 and in the first paragraph of Article 43 be presented to the President of the Republic of Azerbaijan.

The rules, referred to in the third paragraph of the Article 52 of the same law, for permission for the sale within the Republic of Azerbaijan of foreign periodical press publications of which the founder or the permanent location of the editorial office are outside of the borders of the Republic of Azerbaijan be affirmed and information about this be given to the President of the Republic of Azerbaijan.”

ⁱⁱⁱ Through Decree #18, dated 29 January 2004, in the second paragraph in the second point the words “Republic of Azerbaijan Ministry of Justice” have been added after the words “Works Department.”

^{iv} Through Decree #18, dated 29 January 2004, the third paragraph of the second bend was removed. This paragraph read, “In the first part of Article 27 of this law where it is stated “decision of appropriate executive administration organ,” this means a decision of the Republic of Azerbaijan’s Cabinet of Minister based on the presentation of the Republic of Azerbaijan’s Press and Information Ministry;

^v Through Decree #18, dated 29 January 2004, the words “in the first sentence of the second part” and “in the second and fourth parts of Article 27” in fourth paragraph of the second point were removed. This text read, “the power of the ‘appropriate executive administration organ’ referred to in this law in the first sentence of the second part of Article 19, the second and fourth parts of Article 27, and the third part of Article 52 be realized by the Republic of Azerbaijan’s Press and Information Ministry.”

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