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AZERBAIJAN: New literature controls not "formally" about censorship

By Felix Corley, Forum 18 News Service <<http://www.forum18.org>>

New legal amendments approved by Azerbaijan's parliament specify that not only medicines, books and recordings, but "literature with a religious purpose (both hard copy and electronic), audio and video material, goods and produce and other information material with a religious theme" require a state-issued "verification mark" before they can be sold. Those selling religious materials without such marks risk fines and confiscation of the materials. Forum 18 News Service notes that religious literature is already subject to compulsory prior censorship from the State Committee for Work with Religious Organisations, with punishments for those who produce or sell religious literature without State Committee permission.

Religious literature - already subject to compulsory prior censorship from the State Committee for Work with Religious Organisations - is set to face further, parallel control by Azerbaijan's Tax Ministry. Printed and electronic religious literature and recordings are specifically identified in new legal amendments, alongside literature more generally and medicine, as requiring "verification marks" before they can be sold. Although billed as consumer protection and tax measures, legal specialists and human rights defenders have expressed concern to Forum 18 News Service that the real aim of the measures - at least those related to religious literature - is to make it easier to confiscate unapproved religious literature and make publication of religious literature more difficult. The legal amendments are awaiting approval from President Ilham Aliyev.

"This is just the latest measure to restrict religious activity," a member of a Baku-based religious community - who asked not to be identified - told Forum 18 in early July.

Meanwhile, two Muslims in Azerbaijan's second city Gyanja [Gäncä] were given large fines for their religious activity in June. The two were fined just days after three Turkish students studying at the city's university were given even larger fines and initially threatened with deportation (see forthcoming F18News article).

Also, the first hearing took place in a Baku court on 17 July of the appeal of the city's Greater Grace Protestant Church against a lower court decision to liquidate it. The case resumes in court on 31 July (see forthcoming F18News article).

The legal changes

The new controls on religious literature come in amendments to three different legal acts, approved by Azerbaijan's Parliament, the Milli Mejlis, on 29 June in single readings. The amendments - to the Consumer Protection Law, the Tax Code and the Code of Administrative Offences - were then sent to President Aliyev for signature into law. The texts were made public on the Milli Mejlis website.

Under the amendments to the Consumer Protection Law, certain products cannot be sold unless they have a verification mark. The new version of Article 10, Part 1 specifies: "The following items require a verification mark: medicines; audiovisual works, sound recordings, computer programmes, information sources, books and other copyright/authored and related material; literature with a religious purpose (both hard copy and electronic), audio and video material, goods and produce and other information material with a religious theme."

Such a verification mark (in the form of a sticker) would be issued by the "relevant executive power authority". The president will indicate which authority if he signs the amendments.

Under the amendments to the Tax Code, the tax authorities will have the right to halt the sale of products being sold without the appropriate marking.

The amendments to the Code of Administrative Offences create a new Article, 229-1, which provides for punishments for those who sell such products without tax stickers. Fines will be 50 Manats (390 Norwegian Kroner, 52 Euros or 64 US Dollars) for individuals, 100 Manats for officials and 150 Manats for legal entities. While these fines are small, the amendments allow the authorities to

confiscate the entire stock of unmarked products.

Moreover, other existing provisions of the Criminal Code would allow for the prosecution of any company violating the new rules, lawyers told Forum 18.

Why were amendments adopted?

A spokesperson for the Tax Ministry, who did not give his name, said that these legal changes were prepared by the Cabinet of Ministers, the Finance Ministry and the Tax Ministry. "The tax mark is being introduced for all books," he told Forum 18 from Baku on 4 July. "All enterprises producing literature and other materials must be registered for tax with us."

The spokesperson insisted that these provisions are targeted solely at ensuring that tax is paid on commercial production of literature, whether religious or not. He was unable to explain why religious literature, audio and visual products needed to be specifically mentioned.

The Tax Ministry spokesperson also insisted that only books and other products that are sold require tax stickers. "If such production is non-commercial, tax stickers are not required." He said the legal changes would not prevent non-commercial production of books and other materials, including religious materials.

Officials at the Finance Ministry's Legal Department refused to discuss the amendments with Forum 18 on 18 July. The telephone of the Ministry's press officer Mais Piriyev went unanswered the same day.

Telephones at the parliamentary Economic Policy Committee, and other relevant committees, went unanswered each time Forum 18 called in early July.

Not "formally" about censorship

However, others are suspicious about the intentions of the legal changes. "Formally they speak not about censorship or prohibition of distribution of religious books, but about protection of the rights of consumers," Eldar Zeynalov, head of the Human Rights Centre of Azerbaijan, told Forum 18 from Baku on 2 July. He points out that the wording does not require the special registration of those producing religious literature. However, he believes that the practical impact of the amendments is likely to be "stronger control over distribution of such materials".

"If previously for confiscation of books, the police needed some preliminary expertise of their content, now the absence of a verification mark would be enough." Zeynalov notes with bitter irony the imposition of the same controls on medicines and religious literature: "Lenin with his 'religion is the opium of the people' would be satisfied".

Zeynalov also warns that the number of producers would reduce, as only those able to register and obtain verification marks would be allowed. He fears that the authorities might subsequently introduce regulations requiring registration of enterprises which produce religious materials, with obligatory approval by the Caucasian Muslim Board or the State Committee.

"Usually the legal framework limits the rights and freedoms at the lowest level of legal norms, like ministerial instructions and regulations," Zeynalov told Forum 18.

Also expressing concern is Fuad Agayev, a lawyer and member of the Bar Association. "I believe that the new provisions are not reasonable, first of all because they in fact contain only the category requiring verification marks - including religious-related books or other material - without setting out the need for it," he told Forum 18 from Baku on 4 July. "That means that the authorities may arbitrarily create difficulties for receiving permission."

Agayev points out that the rules of such procedure must be adopted by "the relevant executive power authority" which will likely be the Cabinet of Ministries. "As is evident from this, the new amendments may prevent non-commercial production and distribution of religious literature."

Existing censorship

These new consumer protection and tax provisions come on top of existing compulsory, prior censorship of all religious literature produced, distributed or sold in Azerbaijan or imported into the country. "It happens quite frequently that parallel legal rules are adopted here," the lawyer Agayev noted to Forum 18. "Powers are often given to different organisations at the same time."

All religious literature must already gain specific approval from the State Committee. The State Committee also specifies the number of copies of each named work that may be printed or imported, checks the contents of shops selling religious literature, and has a list of banned religious literature which the Expertise Department - which is responsible for the list - will not make public (see Forum 18's Azerbaijan religious freedom survey <http://www.forum18.org/Archive.php?article_id=1690>).

Compulsory licences for shops selling religious literature were introduced in the May 2009 amendments to the Religion Law and a subsequent Instruction on the Rules of Granting Permission in Connection with the Creation of Specialised Sales Points for Religious Literature, Objects of Religious Significance, as well as Other Materials of Informational Character. The State Committee handed out the first 15 licences in November 2011, though its officials noted in April 2012 that "about a hundred" more applicants are waiting for such licences. Selling religious books without a State Committee licence is subject to a massive fine or imprisonment of up to two years for a first "offence" (see F18News 25 April 2012 <http://www.forum18.org/Archive.php?article_id=1693>).

Like many laws and regulations, these regulations are not always enforced. Several Baku bookshops whose stocks include religious literature told Forum 18 in early July that they have no licence from the State Committee.

"Civilised norms of selling religious literature"?

The new Head of the State Committee, Elshad Iskenderov, has revealed that "more than 25" shops in Baku now have licences to sell religious literature. He told journalists in Baku on 23 June - three weeks after his appointment to the State Committee - that the shops had been checked to make sure they provide suitable conditions, and such "monitoring" would continue.

In defending the state requirement that shops that sell religious literature must have a licence from his State Committee, Iskenderov complained: "Quite often at the entrances to the metro, one can witness holy books being sold in places inappropriate and unworthy for their sale."

Iskenderov insisted that the State Committee's aim is achieving "civilised norms of selling religious literature reflecting national spiritual values". And he added: "Shops selling religious literature must have an attractive external look and the literature sold in them must be healthy."

State Committee spokesperson Saleh Aslanov, in line with his usual practice, refused to discuss the licences for selling religious literature with Forum 18 on 4 July by telephone. He asked that questions be submitted in writing. Forum 18 wrote the same day, asking the State Committee how many shops outside the capital have been given such licences. However, Forum 18 had received no reply by the end of the working day in Baku on 18 July.

It remains unclear what criteria are used to determine whether a shop selling religious literature is "appropriate and worthy" to do so, and why it is the role of the state to determine this.

State Committee officials have long complained of where religious literature is sold. "Sometimes you even find cases of religious literature on sale in dirty places, and this is regarded as disrespect for religious values and arouses justifiable public dissatisfaction," the head of the Expertise Department Jeyhun Mamedov told a local news agency in December 2009. "It is not right to equate the sale of religious literature to the sale of other products. Preventing such cases is the duty of both the government and of every citizen of Azerbaijan" (see F18News 12 April 2011 <http://www.forum18.org/Archive.php?article_id=1561>).

"Great difficulties" over importing sacred texts

During his 23 June comments to journalists, Iskenderov of the State Committee also admitted that people bringing "sacred books" into Azerbaijan "faced great difficulties, as the Koran and other sacred books were subjected to thorough checking".

Iskenderov said that procedures for importing "the Koran and other sacred texts" would be simplified "within the nearest future". He said the changes would mean that any such original texts "which do not contain a translation, additional commentaries or footnotes" would be able to be imported without "additional controls". Iskenderov did not explain which regulations or law the proposals would amend, or give a timescale.

In its written 4 July questions, Forum 18 asked the State Committee whether Iskenderov's proposals would only remove censorship controls on sacred texts in their original language - such as the Koran in Arabic, the Bible in Hebrew or Greek, or the Bhagavad-Gita in Sanskrit. Forum 18 asked whether controls on the import of Azeri or Russian translations of these and other sacred texts would remain. The State Committee has not responded to this question either.

Members of several religious communities told Forum 18 in early July that they and friends from their communities rarely bring religious books through Azerbaijani customs when they return from abroad for fear that they will be confiscated. "It's not worth it," one told Forum 18. "If you have more than two books - and both should be different - it is too much of a risk." (END)

For more background information see Forum 18's Azerbaijan religious freedom survey at <http://www.forum18.org/Archive.php?article_id=1690>.

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>>.

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