

The President's Special Representative: Does It Divide Responsibilities with Municipalities or Simply Rebrand of Local Executive Authorities?

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In December 2021, the President of Azerbaijan Ilham Aliyev [appointed](#) a special representative to the liberated territories of the Karabakh Economic Region. This appointment was followed by a presidential decree, which reduced the number of regional offices of the Ministry of Education by merging them into larger units and, in turn, increasing the number of constituents they answer to. Both decisions of the president revitalized discussions around long-awaited reforms of the latent Soviet regional-administrative division (*rayons*) of the country. There are *rayons* [66](#) in Azerbaijan. It has long been proposed to replace *rayons* with new units responsible for significantly larger territories. Such reform is needed to devolve power to the regions. Under the Soviet system, which still remains in force in Azerbaijan, local governance is largely exercised by bodies appointed by the chief executive of the country. When discussing their impact on the local level, these bodies are termed *local executive authorities*. *Rayons* and other smaller administrative divisions within the country have locally elected bodies, which we here term “municipalities,” but they have minimal authority when compared to local executive authorities. Reform is thus needed to devolve power and invest constituents with the right to determine who has power over them at the local level. The above two events, Aliyev’s appointee and his decree, represent

two possible paths forward for Azerbaijan in the near term. Does the special representative connote a new form of centralized power that will be exercised on the local level, or does the decree represent a chance to devolve power to municipalities, as has long been hoped for by democracy advocates.

If these decrees are indeed steps towards the real reform described above, then the government will have to propose changes to the constitution. The ratification of constitutional amendments in Azerbaijan requires a referendum. The Karabakh Economic Region is one of 14 economic regions [created](#) by the president on 7 July 2021. Prior to November 2020, Azerbaijan did not control four (city of Khankendi, Khojaly, Khojavend, Shusha) of the nine administrative *rayons* (city of Khankendi, Aghjabedi, Aghdam, Barda, Fuzuli, Khojaly, Khojavend, Shusha and Tartar) of the Karabakh Economic Region fully, and another three (Aghdam, Fuzuli, Tartar) were controlled only partially. After victory in the Second Karabakh War against Armenia in autumn 2020, Azerbaijan regained control over the majority of these territories. At that time, Aliyev appointed a single special representative with significant executive authority to the liberated territories of four administrative *rayons* (Aghdam, Fuzuli, Khojavend and Tartar). This excludes Shusha. However, the Aghdam, Fuzuli and Tartar *rayons* already have separate local executive authorities. This means that there are two regional executive authorities for each of these *rayons*.

If the government proceeds with the transition to larger regional-territorial administrations as Aliyev's December decree suggested, an important question must be answered. To whom will the responsibilities for the administration of cities and *rayons* be allocated? To local executive authorities or to locally elected officials i.e., municipalities? Local administrations represent state authority at all levels of territorial units i.e., in *rayons* (cities), towns, villages. In cities with populations of more than twenty thousand, these

administrations have their sub-administrations responsible for smaller territorial areas as well. Given that just preceding the new delimitation of administrative boundaries, the president appointed a special representative with executive authority over several *rayons* in the liberated territories, can we expect that such a special representative will be responsible for the new larger administrative regions that unite several *rayons* or will there be a new locally elected official/s that occupies this executive authority?

With this question in mind, we are inevitably drawn to the concept of the municipality, which we define as a local elected body of self-governance. The important role of municipalities in democratic governance has already been defined in standards of other democratic countries and in, for example, the requirements of the [European Charter of Local Self-Government](#). Article 4.3 of the Charter says that “public responsibilities shall generally be exercised, in preference, by those authorities which are closest to the citizen. Allocation of responsibility to another authority should weigh up the extent and nature of the task and requirements of efficiency and economy.” Under the term *authorities closest to the citizen* of the Charter, we understand municipalities, which are the elected institutions of local self-governance. It is assumed that local problems are better understood by municipalities rather than by central authorities.

What about Azerbaijan? Are Azerbaijani municipalities capable of taking on the full or partial executive responsibilities of local administration? Azerbaijani authorities repeatedly give negative responses to this question. They [say](#) that in our current situation, which is defined by a lack of professionals, low administrative skills and limited financial assets, allocating these kinds of responsibilities to institutions of self-governance can cause serious [problems](#). Moreover, various groups frequently launch attack on Azerbaijani municipalities, calling them unnecessary institutions and demanding their abolition. This negative view

of municipalities can be explained by the events of the mid-2000s on. The flow of oil money into the country since the mid-2000s has resulted in extreme centralization of executive authority and contributed to the shaping of opinion about the worthlessness of directly elected municipal government. During these years authorities of directly elected municipalities have been reduced; their financial potential has been weakened; and they have become dependent on centrally appointed local executive authorities. However, the current plight of municipalities should not lead to them being sidelined from this new territorial delimitation. On the contrary, this is a chance to restore faith in them.

Has Azerbaijan Fulfilled its Commitments to the Council of Europe?

The Azerbaijani government made [several commitments](#) when it [joined the European Charter of Local Self-Government in 2002](#). Those commitments include decentralization of the state, allocations of a significant portion of its authorities to those government institutions *which are closest to the citizen* and the provision of necessary financial resources for the conduct of successful local self-government. Unfortunately, [evaluations](#) of Azerbaijan's progress in this arena has so far shown that the government has not fulfilled its commitments.

In 2000, Azerbaijan established a set of municipal councils which are re-elected in five-year cycles. Since then, the Monitoring Group of the Congress of Local and Regional Authorities of the Council of Europe has conducted three studies to evaluate the Azerbaijani Government's progress in fulfilling its commitments before the Charter. As a result of the first of these studies, in 2003 the Congress addressed a Recommendation ([126](#)) on Local and Regional Democracy, which urged the Azerbaijani government to accelerate efforts to resolve problems in local self-governance. The Second study was conducted in 2012, and the recommendations were renewed ([326](#)). The third one was conducted online during the COVID-19

pandemic in February 2021. In May 2021 the 40th Session of the Congress adopted the third ([461](#)) recommendation package. Analyses of the results of these three studies, which were conducted every nine years, show that their recommendations change very little. All three stipulate that despite some minor positive signs, observers had not seen fundamental changes. For instance, in the last recommendation package, number 461, the Monitoring Group of the Congress underlines the following positive changes:

1. an Automated Municipality Information System has been introduced, making payments to and by municipalities electronic and thereby enhancing transparency and improving the collection of local taxes and fees;
2. for the first time, in 2020 the government made use of the opportunity to delegate functions to municipalities, allocating corresponding funds;
3. in the last decade, the legislation relevant to local self-government has been partly amended introducing some improvements, including in the system of financing municipalities and in the merit-based selection of municipal staff;
4. the process of amalgamation of smaller municipalities continues in an uncontroversial way;
5. in the last municipal elections in 2019 the number of female and young representatives in the municipal councils has significantly improved.

Although these improvements have had positive effects on municipal governance, the majority of them are of a technical character and do not contribute to the transformation of municipalities into bodies with real authority. Let me provide a few examples to support my point.

1) Although the introduction of Automated Municipality Information System has undoubtedly enhanced transparency in the collection of local taxes and fees, current essential problem is the low quantity of collected taxes. For instance,

in 2020 per-capita local taxes in the country were around [1,4 AZN](#). It is too low a figure if we take into account high potential of collectable local taxes in the country. In the same period per-capita state tax incomes were around [882](#) AZN. In addition, those who reside in rural areas or villages have limited access to bank services, and it is not easy for them to visit *rayon* centers to pay taxes.

2) In 2020 [3,8 million AZN](#) from the state budget was allocated to five municipalities. The reason for these transactions was that wastewater treatment equipment belonging to the Ministry of Environment and Natural Resources and assembled on the shores of the Caspian Sea was given to municipalities. This transfer was evaluated as a *delegation of government's functions to municipalities by allocating corresponding funds*. However, this step was a one-time delegation of authority, and no similar devolution has been detected again. The money allocated for this single *delegation of functions* amounted to 0,014% of the state budget's expenditures.

3) Although the national legislature has provided opportunities to increase the financial prospects of municipalities, the tendency on the ground has been to otherwise further their financial limitations. The only positive step taken by the legislature was changes to the [tax base](#) of individual property taxes made in 2014. It was exactly the result of these changes that revenues of municipalities from individuals' property taxes doubled in the years between 2012 and 2020 and increased from 3,7 million AZN to 7,9 million AZN.[\[1\]](#) However, due to the amendments made to the [Tax Code](#) in 2016 (Article: 206.1-1 and 206.3) some revenues from individual property tax are now going to the state budget. According to the State Statistics Committee in the years between 2012 and 2019, the revenues of municipalities from individual property tax decreased by 15,4% from 6.5 million AZN to 5.5 million AZN.[\[2\]](#)

The two other positive developments indicated in the

recommendations above did not contribute much to the authority and finances of municipalities as well. Although amalgamation of smaller municipalities formally was made voluntarily, in reality it is no secret that they were carried out without consulting the local population, on the direct orders of central authorities.

Although the Congress of Local and Regional Authorities of the Council of Europe in each of its three recommendations indicated a different set of positive changes, they emphasized the same shortcomings because there have been no improvements in those areas. In the latest [recommendation](#), the Congress urged the Azerbaijani government to make improvements. The following is the summary of those recommendations:

- unambiguously recognize municipalities as state institutions exercising public power as part of the overall public administration;
- clarify in legislation the relations between municipalities and local state executive bodies, as well as the overlapping responsibilities between municipalities and local executive authorities which currently create a condition of de facto subordination of the former to the latter;
- amend the Law on the Status of Municipalities and the other laws transferring tasks and functions to municipalities by ensuring that the powers and duties entrusted to municipalities are full and exclusive;
- adopt a law on the status of the capital city and establish a unified and democratically elected municipal government in Baku;
- improve the working conditions for municipal staff, including in terms of salaries and liability, in order to make civil service in the municipalities attractive for qualified personnel;
- complete the process of repealing from legislation the obligation for municipalities to report to parliament on their activities and adopt a law regulating reporting by municipalities, in line with Recommendation CM/Rec(2019)3 of

the Committee of Ministers to member States on supervision of local authorities' activities;

- reduce financial dependence of municipalities from the state by increasing and making sustainable their own revenues, by allowing municipalities to determine the rates of their taxes and by granting that the principle of concomitant financing be ensured in case of state transfer.

All three of the recommendations made during the last 22 years propose three main goals: defining status, clarification and augmentation of municipal authority and strengthening of municipal financial capacity. Achieving all of these goals are very important. Insufficiency in one impacts the others. Yet the Azerbaijani government does not seem interested in extending the allocation of some of its authorities to municipalities. So far only one article, namely 10.3 of the European Charter of Local Self-Government was ratified by the Azerbaijani parliament in 2013. This article allows municipalities to build relations with foreign municipalities. However, the Congress's main request of the Azerbaijani government has been the ratification of article 4.3. which envisages a commitment to share the state responsibilities with municipalities. This requires decentralization of state functions.

Transformation into Genuine Regional Administration or More Central Control?

Now let us look at the new regional administrative delimitation initiative of the government discussed in the beginning of the article. The introduction of the institution of presidential special representatives by the government, which just preceded that delimitation decree, paved the way for discussions about the abolishment of local executive authorities in *rayons*, and their powers will be transferred to municipalities. However, the government has not yet reacted to these discussions and rumors. Despite the lack of official statements, it would seem that the government is not

interested in preserving the current situation regarding local executive authorities and municipalities, and might desire some changes. What kind of developments can we expect? Let us have a look at three possible scenarios:

1) The President's special representatives is an interim institution. After the reconstruction of infrastructure in the liberated territories is completed and refugees are returned, this institution will be abolished and their authority will be returned to the previous local executive authority of *rayons*.

2) The creation of a new regional administration. If the institution of the presidential special representative proves itself, this institution will be established in other newly created economic regions. In this case, local executive authority in *rayons* and cities will be abolished, making way for the majority of their authority to be transferred to municipalities.

3) Control by the newly established offices of the presidential special representatives over local executive authorities. Additional presidential special representatives will be repeated in other economic regions. At the same time, executive authorities in *rayons* will remain intact and no additional authorities will be transferred to municipalities. In this case, special representative offices will overlook state policy in the regions, while executive authorities in *rayons* will be responsible for the local economy.

Which one of these scenarios will play out remains to be seen. The central government will decide. Will the government be willing to share the authority it amassed at expense of municipalities or will it opt to strengthen its centralized power further by reinforcing control? There is probably little probability of the first scenario. Everything will depend on the performance of the special representative institution. It is no coincidence that this initiative was implemented in de-occupied territories of Aghdam *rayon* and then enlarged to the

limits of the newly established economic region. If the new initiative fails, then a return to previous situation cannot be discarded. There is also a chance that the third scenario will play out. A recent string of arrests of local executive administration heads in various *rayons* illustrates that trust in this institution among the ruling elite is low. The performance of the newly appointed heads of the executive authorities in rayons is also questionable. Under these circumstances, it is possible that local executive authorities will be preserved as institutions responsible for the local economy, while, at the same time, the newly established representative offices will be responsible for such things as the implementation and execution of state policies on the local level, the attraction of foreign investors to the region, etc. In this case municipalities will either remain near powerless structures or will get only little additional authority. The central government's intention to strengthen its control over local executive bodies can certainly lead to this. In the end, although the realization of the second scenario is desirable, there is little chance that it is going to happen because, in order for this to happen, the central power must show its interest in sharing authority. Under current circumstances in Azerbaijan, the constitutional changes via referendum, the adaptation of legislation on municipalities as well as ratification of European Charter are not a difficulty impeding more municipal authority. If Baku had the will to share power, the above procedures would not be a challenge.

The criticisms directed at municipalities are that they have little experience in administration, a lack of experienced personnel, as well as lack of transparency. However, these criticisms cannot be applied to all municipalities, and even if they are true, they can be addressed and improved. The regular transfer of members and employees of municipalities to state administration proves that their administrative skills are not as bad as portrayed. The expertise of personnel also

depends on the attractiveness of the institution. If there is enough financing of municipalities, professionals will want to work for them. Regarding transparency, municipalities are the best solution to the problem. Unlike with *rayons*' local executive authorities, the local population has the right to control the financial activities of municipalities along with the state. Unlike those state institutions, municipalities are obliged to report to local population. Municipalities, as confirmed in the European Charter, are the closest governing institutions to the population.

Notes and References:

[\[1\]](#) Report of the State Statistics Committee about implementation of municipality's budget in the years between 2012 and 2020.

[\[2\]](#) Report of the State Statistics Committee about implementation of municipality's budget in the years between 2012 and 2019.