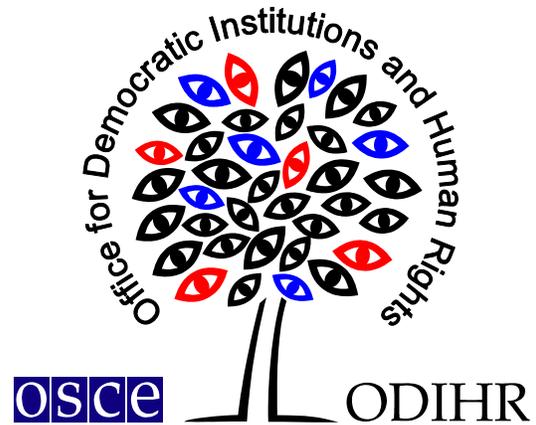


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Comments
on the Draft Laws of the Kazakh Republic
“On counteractive measures against extremist activities”
and “On amendments to several legislative acts with regard
to counteractive measures against extremist activities”

Executive Summary

1. OSCE ODIHR has reviewed the Draft Law Nr 400 of the Republic of Kazakhstan “*On counteractive measures on extremism*” (“**Draft**”) adopted 10 April 2004 by the Kazakh Government and the Draft Law Nr 406 of the Republic of Kazakhstan “*On amendments to several legislative acts of the Republic of Kazakhstan with regard to counteractive measures on extremist activities*” adopted 12 April 2004 by the Kazakh Government (“**Draft Amendment**”)¹. The Mazhilis adopted both draft laws on 20 October 2004. The draft laws have been submitted to the Senate, which has to decide next.
2. OSCE ODIHR received a revised version of the Draft on 12 October 2004. OSCE ODIHR has not received a revised version of the Draft Amendment.
3. Both drafts follow a legitimate aim, which is to introduce a sufficient legal basis for counteractive measures on extremism. State authorities must be enabled to protect the State as such as well as the citizens. However counteractive measures on extremism must not serve as a pretense for suppression of oppositional political or religious groups.
4. Both drafts contain provisions that should be reconsidered. Restrictions on human rights and fundamental freedoms must be defined as precise as possible and be necessary and proportionate to the aim pursued. In general they must remain an exception rather than the rule. Both drafts do not comply with these standards entirely. Particular concerns are raised with regard to freedom of association, freedom of religion or belief, freedom of media, freedom of information and freedom of assembly.

¹ These comments have been prepared on the basis of a Russian version of both Draft Laws, which were provided by the OSCE Centre in Almaty.

5. Essential to both drafts is the definition of “*extremism*”, since it has far-reaching consequences for human rights and fundamental freedoms. This provision is too vague and respectively too broad. It may therefore lead to arbitrary measures by law enforcement agencies. OSCE ODIHR strongly recommends that this provision be reconsidered.

Comments

I. Scope of Review

This is not a comprehensive review, but comments on the Draft Law Nr 400 of the Republic of Kazakhstan “*On counteractive measures on extremism*” (“**Draft**”) adopted 10 April 2004 by the Kazakh Government and the Draft Law Nr 406 of the Republic of Kazakhstan “*On amendments to several legislative acts of the Republic of Kazakhstan with regard to counteractive measures on extremist activities*” adopted 12 April 2004 by the Kazakh Government (“**Draft Amendment**”)². Both draft laws have been adopted by the Mazhilis on 20 October 2004. They have been submitted to the Senate, which must also approve of both draft laws³.

OSCE ODIHR received a revised version of the Draft on 12 October 2004. OSCE ODIHR has not received a revised version of the Draft Amendment. It cannot be excluded that both drafts have undergone further changes before being adopted by the Mazhilis.

These comments have been prepared within a tight time schedule. Not all pieces of Kazakh legislation, which have relevance to the two drafts - such as the Presidential Decree Nr 332 “On the prevention and suppression of terrorism and extremism” (adopted 10 February 2000), regulations on freedom of religion or belief, freedom of association, freedom of the media and/or freedom of assembly – have been taken in consideration. It is therefore likely that not all aspects of both draft laws with regard to human rights and fundamental freedoms are covered by these comments.

² These comments have been prepared on the basis of a Russian version of both Draft Laws, which were provided by the OSCE Centre in Almaty.

³ Press release by the Mazhilis (Parliament of the Republic of Kazakhstan) on 21 October 2004 (cp website of the Mazhilis www.parlam.kz - last visit on 21 October 2004)

The OSCE ODIHR would also like to mention that the comments provided herein are without prejudice to any further comments or recommendations that the OSCE ODIHR may wish to make on the draft laws under consideration.

II. Legislative approach

The Draft provides “*the legal and organizational basis for counteractive measure on extremism in order to protect human rights and freedoms, the constitutional order, the integrity and national security of the Republic of Kazakhstan*” (cp introductory note of the Draft).

1. Specific Anti-Extremism Law

The Draft aims to introduce a specific Anti-Extremism Law into Kazakh legislation. It is questionable whether or not this is an adequate legislative approach. Extremism is not a legal term and defining it in a coherent manner may be very difficult, if not impossible. Extremism is a political and social phenomenon which affects State and society on numerous issues – such as associations, media, public services, religion or belief, political parties, education etc. Therefore, far-reaching intersections of a specific law on anti-extremism with the existing legislation cannot be avoided, and the added value – from a legal standpoint – might be rather low.

This legislative approach should be reconsidered. Alternatively, all counteractive measures on extremism could be integrated to the existing legislation – such as, for example, the Code of Civil Procedure, Criminal Code, Code on Administrative Violations etc.. The Draft Amendment already follows this concept by proposing several amendments to existing Kazakh laws.

2. References to other legislative acts

This legislative approach - adoption of a specific Anti-Extremism Law - also leads to numerous references to the existing legislation (cp Article 6, 7, 8, 10, 13, 14, 15 of the Draft). These references must be precise. Otherwise, it cannot be excluded that provisions containing important procedural safeguards or preconditions are not taken into consideration, whenever the Anti-Extremism Law is applied.

Both draft laws should be reconsidered in this respect. All references must be specified. Each provision should explicitly indicate the legislative act to which it refers to.

III. Definitions

Essential to the Draft is Article 1 Nr. 5, which defines “*extremism*”⁴. This definition has far-reaching consequences for human rights and fundamental freedoms, since a broad range of activities can be interpreted as extremism, as it is defined in Article 1 Nr. 5 of the Draft.

The definition of extremism given in the Draft is too broad and too vague. As a result, this provision can result in restrictions on human rights being the rule and not the

⁴ Article 1 Nr. 5 of the Draft: “Extremist activities (extremism) refer to the organization and/or commission:

By an individual, group of persons or an organization of actions in the name of organizations declared, in the prescribed manner, to be extremist organizations;

by an individual, group of persons or organization of any actions in pursuit of the following extremist goals:

A violent change in the constitutional order; the violation of the sovereignty and integrity of the Republic of Kazakhstan or the unity of its territory; the undermining of the State’s security and ability to defend itself; the forceful seizure of power or the forceful retention of power; the creation and direction of, and participation in, an illegal paramilitary formation; the organization of armed rebellion and participation in it; the inflaming of social and class discord (political extremism);

The establishment in the State of the supremacy of one ethnic group and also the inflaming of racial, ethnic or clan discord (ethnic extremism);

The establishment in the State of the supremacy of one religion, inflaming of religious hostilities or discord, also including the use of force or invoking the use of force (religious extremism)”

exception⁵. A broad range of actions of a person or of a legal entity could be qualified as extremist according to this definition. This is especially true for activities with regard to politically sensitive issues. Arbitrary measures against oppositional political or religious groups can not be excluded⁶.

Particular concern raises the definition of “*religious extremism*”: “*The establishment in the State of the supremacy of one religion, incitement of religious hostilities or discord, also including the use of force or invoking the use of force (religious extremism)*”. This provision does not exclude arbitrary measures, because even though possibly stating a legitimate aim it is too vague and too broad. For example adherence to one single deity and/or missionary activities can be considered extremist, since this could be interpreted as “*establishment in the State of the supremacy of one religion*”.

In addition this definition of religious extremism does not distinguish between the simple adherence to a religion or belief on one hand (*forum internum*) and the manifestation of such on the other hand (*forum externum*). According to international human right standards only the manifestation of a religion or belief may be subject to limitation.⁷

Finally, this definition does not require that public manifestation of religion or belief lead to religious hostilities or discord. Therefore, peaceful public manifestations of religion or belief may also be declared extremist. In any case, the Draft should focus on genuinely dangerous acts or commission of violence, which pose harmful threats to State and society⁸.

OSCE ODIHR strongly recommends that this provision be reconsidered.

⁵ cp Article 21 of the Concluding Document of Vienna 1989 “... . The restrictions have the character of exceptions. ...”

⁶ Guidelines for review of legislation pertaining to religion or belief, ODIHR 2004, p. 9

⁷ Article 18 of the UN Covenant on Civil and Political Rights (“ICCPR”); Guidelines for review of legislation pertaining to religion or belief’ ODIHR 2004; Nowak, Manfred “CCPR Commentary”, Article 18 para. 9 – 45, Kehl am Rhein 1993

⁸ Guidelines for review of legislation pertaining to religion or belief, ODIHR 2004, p. 9

IV. General principles for all counter-extremist measures

General principles for all counteractive measures on extremism are stated in Article 4 of the Draft. Amongst others the Draft states the principle of non-discrimination and legality as well as a “*priority for national security*”⁹.

This provision should be reconsidered. The use of the word “*priority*” in the Draft can be misleading from a legal standpoint, because it might lead state authorities to the conclusion that as a rule security interests must be valued higher than human rights. This conclusion contradicts the principle that restrictions on human rights and fundamental freedoms must be the exception and not the rule¹⁰.

V. Freedom of association

As mentioned above, we have not been provided with a revised version of the Draft Amendment. The following comments on the freedom of association with regard to the Draft Amendment are therefore based on the version available to OSCE ODIHR dated 12 April 2004.

⁹ cp Article 4 of the Draft: “Basic principles for countering extremism
The countering of extremism shall be based on the following principles:
Superiority of the law;
equality of the rights and freedoms of the human being and citizen, regardless of his race, ethnic group, language, attitude to religion or affiliation with a social group;
The inadmissibility of carrying out extremism in the Republic of Kazakhstan, regardless of the form in which these activities are manifested;
The preclusion of conditions and opportunities for carrying out extremism;
The ensuring of the maintenance of public accord, including inter-ethnic and inter confessional accord;
The inculcation among the citizens of a political and legal culture based on democratic norms;
The priority of ensuring the national security of the Republic of Kazakhstan;
The co-operation of the State with individuals and legal entities.”

¹⁰ Article 21 of the Concluding Document of Vienna 1989 “... . The restrictions have the character of exceptions. ...”

1. Banning of associations

Extremist associations can be banned through court decision upon application by State bodies of the procurator, State bodies of internal affairs and citizens of the Republic of Kazakhstan (cp Article 8 (2) of the Draft)¹¹. OSCE ODIHR would like reiterate in this respect that the definition of “extremism” is too vague and arbitrary measures can not be excluded.

This provision should be reconsidered. It is questionable whether or not ordinary citizens should be granted the right to file an application to the court.

2. International and foreign organizations

The Draft and the Draft Amendment contain specific regulations with regard to foreign and international organizations. They can be banned if they promote extremism. A relevant decision by the city court in Astana upon application by the public prosecutor is necessary (cp Article 8 (3) of the Draft)¹². The evidence contained in such application can include “*factual data obtained from competent organs of foreign States, including judicial rulings of international courts and international courts*” (cp Article 1 of the Draft Amendment)¹³.

¹¹ Article 8 of the Draft: “(1) Declaration of an association as extremist is obtained through courts procedure. Associations are also declared extremist, if only one of its subdivisions (branches and representations) promotes extremism with knowledge of one of the leading bodies of the association. (2) An application for declaring an association extremist can be submitted to the court by bodies of the procurator, by bodies of internal affairs and by citizens of the Republic of Kazakhstan.”

¹² Article 8 (3) of the Draft: “3. International or foreign organizations, which are active on the territory of the Republic of Kazakhstan and (or) other States, can be declared extremist by the court of the city of Astana upon application by organs of the prosecutor according to proceedings prescribed by the legislation of the Republic of Kazakhstan.”

¹³ Article 1 of the Draft Amendment: “To the Code of Civil Procedure of the Republic of Kazakhstan of 13 July 1999 (Gazette of the Parliament of the Republic of Kazakhstan, 1999, No. 18, article 644; 2000, Nos. 3–4, article 66; No. 10, article 244; 2001, No. 8, article 52; Nos. 15–16, article 239; Nos. 21–22, article 281; No. 24, article 338; 2002, No. 17, article 155; 2003, No. 10, article 49; No. 14, article 109; No. 15, article 138; Law of the Republic of Kazakhstan of 10 March 2004 on Amendments and Additions to Several Legislative Acts of the Republic of Kazakhstan regarding Financial Leasing, published in the newspapers *Yegemen Kazakstan* of 16 March 2004 and *Kazakhstanskaya pravda* of 18 March 2004) add a chapter 36–2 and articles 317–6, 317–7 and 317–8 reading as follows:
Chapter 36–2. Procedure following application to have a foreign or international organization engaged in carrying out extremist activities on the territory of other States declared to be an extremist organization

This provision should be reconsidered. It can be misleading from a legal standpoint, since its wording suggests that a Kazakh court could declare a foreign or international organization as extremist exclusively on the basis of a decision by a court from a foreign State. This would have serious implications for the freedom of association, since not all foreign courts are established and/or rule in accordance to international fair trial standards.

3. Increased penalties for administrative violations

Sanctions pursuant to the Code of Administrative Violations will be increased substantially for violations of legislation with regard to public organizations (cp Article 2 of the Draft Amendment)¹⁴.

Article 317–6. Filing the application

The application to have a foreign or international organization engaged in carrying out extremist activities on the territory of other States declared to be an extremist organization shall be filed by the offices of the public prosecutor to the court of the city of Astana.

Article 317–7. Content of the application

The application must set out the circumstances confirming the fact of the carrying out by a foreign or international organization on the territory of any State of activities that, were they to be carried out on the territory of the Republic of Kazakhstan, could be found to be extremist activities under the laws of the Republic of Kazakhstan.

The proof contained in the application filed by the offices of the public prosecutor to have a foreign or international organization declared to be an extremist organization may also include factual data obtained from the competent agencies of foreign States, including the judicial rulings of international courts and courts of foreign States.

Article 317–8. Court ruling on the application

The court ruling shall serve as the basis for the inclusion of information regarding a foreign or international organization engaged in carrying out extremist activities on the territory of other States in the special records-keeping system of the authorized agency with responsibility for legal statistics and special records-keeping.

The offices of the public prosecutor shall be exempt from the payment of court costs incurred in connection with the examination of the case to have a foreign or international organization engaged in carrying out extremist activities on the territory of other States found to be an extremist organization”.

¹⁴ Article 2 of the Draft Amendment: “To the Code of the Republic of Kazakhstan on administrative violations of 30 January 2001 (Gazette of the Parliament of the Republic of Kazakhstan, 2001, Nos. 5–6, article 24; Nos. 17–18, article 241; Nos. 21–22, article 281; 2002, No. 4, article 33; No. 17, article 155; 2003, Nos. 1–2, article 3; No. 4, article 25; No. 5, article 30; No. 11, articles 56, 64 and 68; No. 14, article 109; No. 15, articles 122 and 139; No. 18, article 142; Nos. 21–22, article 160; No. 23, article 171): Use the following wording for article 374: “Article 374. Violations of the laws regarding public associations
1. The commission by executives or members of a public association or by a public association of actions that go beyond the objectives and tasks set out in the statutes of those public associations shall result in a warning to or fine on executives of the public association of up to 50 times the legally established conventional monthly amount; on members of the public association up to 20 times the legally established

This provision should be reconsidered. Sanctions must remain proportionate to the violation. In addition the increased penalties are applicable even if a public organization did not conduct any extremist activities. The impression should be avoided that not extremism but rather restrictions on the freedom of association is the focus of the Draft Amendment.

VI. Freedom of the media

Pursuant to the Draft a competent State agency for affairs with regard to mass information “*conducts a monitoring*” of the products of the mass media with regard to extremism (cp Article 6 (2) of the Draft)¹⁵. In addition activities of an owner or distributor of mass media can be prohibited if they promote extremism. A court decision is required (cp Article 15 (1) of the Draft)¹⁶.

conventional monthly amount; and on the public association up to 200 times the legally established conventional monthly amount.

2.The commission by executives or members of a public association or by a public association of actions violating the laws of the Republic of Kazakhstan governing public associations shall result in a fine on executives of the public association up to 100 times the legally established conventional monthly amount; on members of the public association up to 50 times the legally established conventional monthly amount; the shutting down of the operations of the public association for a period of from three to six months.

3.The commission of the same actions for a second time within one year of the imposition of the administrative sanction provided for in part 1 of this article shall result in a fine on executives of the public association of up to 150 times the legally established conventional monthly amount; on members of the public association up to 100 times the legally established conventional monthly amount; the shutting down of the operations of the public association for a period of from three to six months.

4.The commission of the same actions for a second time within one year of the imposition of the administrative sanction provided for in part 2 of this article, and also the failure to remedy the violations that resulted in the imposition of the administrative sanction provided for in part 3 of this article, shall result in a fine on executives of the public association of up to 400 times the legally established conventional monthly amount; on members of the public association up to 200 times the legally established conventional monthly amount; the banning of the activities of the public association.”

¹⁵ Article 6 Nr. 2 of the Draft: “... the competent State agency for affairs with regard to mass media conducts a monitoring of products of mass media on the subject of the inadmissibility of propaganda and justification of extremism, on the respect for the legislation of the Republic of Kazakhstan, guarantees the coverage of questions on strengthening inter-ethnic and inter-religious understanding in mass media, which fulfill State requests; ...”

¹⁶ Article 15 (1) of the Draft: “... ”

Activities of owners or of disseminators of mass media shall be shut down or prohibited by the court in the event that they are guilty of carrying out extremism through the use of mass media. ...”

This provision should be reconsidered. It is not clear what measures can be considered as “monitoring” and to what consequences the results of this monitoring may lead. It is also not indicated, according to what legislative act a court decision on prohibition of extremist activities can be obtained. In addition the prohibition must not be limited to activities in the field of mass media, but it can be extended to other areas completely unrelated to mass media. In addition, it is not required that either owner or distributor of mass media act intentionally. In general a criminal offence and a related court decision should be precondition for limitations on mass media – if these measures are necessary at all.

VII. Freedom of information

“*Communication networks and systems*” can be shut down or prohibited if they are used for promoting extremism (cp Article 12 of the Draft)¹⁷. Following an application by the public prosecutor, a court decides whether or not the disseminated information has extremist content. If the information is related to religious extremism, the court must also engage an external expert who analyzes the disseminated information. If the court declares this information as extremist, the competent State agency shuts down or prohibits the respective communication network or system.

This provision should be reconsidered. “*Communication networks and systems*” are not defined. In case other legislative acts contain a respective definition this should be indicated by the Draft. The provision does not require that the owner and/or provider

¹⁷ Article 12 of the Draft: “Prevention of the use of communication networks and systems for carrying out extremism, publishing and disseminating extremist material

On the territory of the Republic of Kazakhstan it shall be prohibited to use communication networks and systems for carrying out extremism and for publishing and disseminating extremist material.

If communication networks and systems are being used to carry out extremism harmful to the interests of the individual, the society and to the State, the State agencies shall, in accordance with the laws of the Republic of Kazakhstan, shut down the activities of any communication networks and systems and to prohibit their use.

The detection of the presence in information material of signs of extremism shall be the responsibility of the court at the place where the organization engaged in the publication of such material is located, acting on the basis of an application from the public prosecutor. In order that the court may determine that the information material contains signs of religious extremism, there must be a finding to that effect by a forensic expert.”

act intentionally. Their rights could be restricted, without them even being aware of disseminating extremist material. There is a high degree of risk that this would lead to disproportional measures.

In addition it is not clear why a court decision should only identify extremist material. A court decision should rather be required in order to shut down or prohibit networks and systems. It is also not clear why external expertise must be considered only with regard to religious extremism.

VIII. Freedom of religion

As it was stated already above, the definition of “*religious extremism*” of the Draft is too broad and too vague and should be reconsidered. This provision allows sanctions against religions or beliefs as such, since its scope of application is not limited merely to the manifestation of religion or belief. In addition, due to its vagueness the provision allows arbitrary measures by the law enforcement agencies.

1. Study and analysis by the State agency for relations with religious organizations

The Draft entitles the State agency for relations with religious organizations to “*study and analyze*” religious organizations, which exist on the territory of the Republic of Kazakhstan. A reference to any other legislative act is not stated (cp Article 6 (1) of the Draft)¹⁸.

This provision should be reconsidered. It is too vague. “*Study and analyze*” may include for example the following measures: examinations, informal questioning,

¹⁸ Article 6 Nr. 1 of the Draft: “The State agency responsible for relations with religious organizations shall study and analyze the activities of religious organizations established on the territory of the Republic of Kazakhstan and of foreigners engaged in preaching and/or disseminating any religious teaching; shall implement information and propaganda measures concerning issues falling within its competence; shall examine matters concerning violations of the laws on freedom of religion and religious associations; and shall submit recommendations on the banning of the activities of religious organizations guilty of violating the laws of the Republic of Kazakhstan on countering extremism;”

observations, registration in databases or even arrest of members of religious organizations. This lack of clarity in wording is in particular not solved by the introductory statement of this provision according to which all State agencies act within the range of their competencies (cp Article 6 of the Draft)¹⁹. It remains unclear which legislative act defines these competencies. According to the wording it could be the Draft itself which is not precise as shown above – if competencies are defined by another legislative act this other legislative act is not identified herein.

2. Recommendations by the State agency

The State agency for relations with religious organizations “*shall submit recommendations on the banning of activities of religious organizations which violate the laws of the Republic of Kazakhstan on countering extremism*” (cp Article 6 (1) of the Draft)²⁰.

This provision should be reconsidered. It is not clear to which State body this recommendation shall be submitted. It is also not clear what are the consequences of such a recommendation.

3. Study by local executive authorities

Local executive authorities are entitled to “*study*” the activities of religious organizations on their territory. In addition, they can establish a database with regard to these organizations (cp Article 6 (6) of the Draft)²¹.

¹⁹ Article 6 of the Draft: “State agencies implement within the range of their competence following preventive measures aimed at preventing extremism:”

²⁰ Article 6 Nr. 1 of the Draft: “The State agency responsible for relations with religious organizations shall study and analyze the activities of religious organizations established on the territory of the Republic of Kazakhstan and of foreigners engaged in preaching and/or disseminating any religious teaching; shall implement information and propaganda measures concerning issues falling within its competence; shall examine matters concerning violations of the laws on freedom of religion and religious associations; and shall submit recommendations on the banning of the activities of religious organizations guilty of violating the laws of the Republic of Kazakhstan on countering extremism;”

²¹ Article 6 Nr. 6 of the Draft: “The local executive authorities of the regions (cities of Republic-wide significance and the capital) and the local executive authorities of the districts (cities of regional

This provision should be reconsidered. As already mentioned above the term “*study*” is too vague and may include numerous measures. In addition precise reference to another legislative act is missing. Purpose and access of the database are also not defined.

IX. Freedom of assembly

Organizers and other persons, responsible for holding mass events, must ensure that no extremist activities take place at this occasion. If they fail to comply with this obligation, the mass event will be terminated by the competent State agencies according to the laws of the Republic of Kazakhstan (cp Article 13 of the Draft)²².

This provision should be reconsidered. It assigns core duties of law enforcement agencies -- the protection of public order -- to ordinary citizens²³. This is in particular concerning from a human rights perspective in a situation where a mass meeting is disturbed by demonstrators who directly oppose the political intentions of the organizers. According to the Draft, it is possible to deny the freedom of assembly to

significance) shall co-operate with public associations; shall study the activities of religious associations established on the territory of a region, city of Republic-wide significance, or district (city of regional significance) and of foreign citizens engaged in preaching and/or disseminating any religious teaching by means of educational activities of a religious nature; shall set up a database on these associations or persons; shall implement information and propaganda measures at the regional level regarding issues falling within their competence; and shall study and analyze the religious situation in the region.”

²² Article 13 of the Draft: “Inadmissibility of extremism in connection with mass events

Extremism shall not take place in connection with holding of mass events. Organizers of mass events shall be responsible for observing the requirements established by the laws of the Republic of Kazakhstan regarding the holding of mass events. Organizers of a mass event shall be warned in advance in writing of their responsibility in this regard by the local executive body in a city of Republic-wide significance, or in a capital or in a district (city of regional significance).

When holding mass events, it shall not be permitted to involve in them extremist organizations or to use their symbols or to disseminate extremist material.

If the circumstances which are stated in this article occur, organizers of the mass event or other persons responsible for holding the event shall be required to take measures without delay for the purpose of eliminating the violations in question. Failure to meet this obligation shall result in the termination of the mass event and in the holding of its organizers responsible on the grounds and in the manner provided for by the laws of the Republic of Kazakhstan.”

²³ Document of the Copenhagen meeting of the conference on the Human Dimension of the CSCE 29 June 1990 – Commitment Nr. 9 (2): “The participating States reaffirm that everyone will have the right of peaceful assembly and demonstration. Any restrictions which may be placed on the exercise of these rights will be prescribed by law and consistent with international standards”.

the organizers, even if they are themselves threatened by extremists. In addition in most cases organizers will simply not have the resources to prevent extremist activities.

X. Conclusion

These comments have been prepared within a very tight time schedule. It is therefore very likely that not all aspects of the two drafts with regard to human rights and fundamental freedoms have been taken in to consideration.

It is a legitimate aim for Kazakh legislators to provide a sufficient legal basis for counteractive measures on extremism. The State has a duty to protect itself and its citizens. However this shall only lead to restrictions on human rights and fundamental freedoms, which are necessary and proportionate. Both drafts raise several concerns with regard to freedom of association, freedom of religion or belief, freedom of media, freedom of information and freedom of assembly.

Essential to the draft is the definition of “extremism”. This definition is too vague and too broad. This raises particular concerns since this definition has far reaching implications for human rights and fundamentals freedoms. We strongly recommend that Article 1 of the Draft be reconsidered.