

Regarding the requirements arising from the principles of UN Human Rights Council resolution No 32/31 titled “Space for Civil Society”

Providing freedom of assembly (establishment and registration)

According to the 58th article of the Republic of Azerbaijan, everyone has the right to establish any union, including political party, trade union and other public organization or enter existing organizations. There is relevant legislation on political parties, trade unions and non-governmental organizations, as well as other normative legal acts to ensure the legal activity of these organizations in our country.

Legislation regarding Non-governmental Organizations (NGOs) consists of Constitution, Civil Code, and Law on “Non-governmental Organizations (public unions and foundations)”, Law on the state registration and state registry, Law on “Grants”, Law on Voluntary activity”, respective Decrees and Orders of the President of the Republic of Azerbaijan, including other regulatory normative legal acts.

The following institutions exist in the Republic of Azerbaijan:

- Trade Unions
- Political Parties
- Religious organizations
- Creativity associations

At the moment more than 4000 Commercial (NC) organizations officially registered in the country. Activity of up to 3000 organizations is regulated in accordance with the Law on “Non-governmental organizations (public union and foundations)”. 314 of these organizations have been specialized on protection of fundamental rights and freedoms. Furthermore, there are representatives of foreign NGOs and donor organizations, of which activity is regulated by Law on “Non-governmental organizations (public union and foundations)”.

One of the main principles of the Law on “Non-Governmental Organizations” is the **principle of voluntary activity during official state registration**. According to this principle, state registration is neither a duty nor legal obligation. It is the right of NGOs to register officially or not. NGOs gain the status of a legal entity by state registration. NGOs, which do not register, operate as a voluntary association of people as a public union, as determined by them, based on the rules and principles that are not contrary to the Constitution.

- It is free to unite in NGOs. Everyone can establish public union with others without notifying any state agency. State registration is voluntary.
- State registration is a right, not a duty.
- Public union, of which activity is terminated by court order, loses the status of a legal entity. There is no legal obstacle for the NGO, of which status of legal entity was cancelled, to continue its activities as a public union.

Access of Civil Society to resources (opportunities for financing)

737 applications by 220 organizations were submitted to the Ministry of Justice related to registration of 1817 contracts (decisions) in the year of 2013. On those contracts grant, amounting to 67.217.026 AZN (\$ 86 176 000 on the currency during that time), was received from 173 donor organizations. 23.550.942 AZN (\$ 30 194 000 on the currency during that time) out of overall amount is the grant issued by foreign donors (on education, awareness raising, youth, social problems, development of civil society, human rights and other projects).

The amount of funds allocated to NGOs by country donors (mainly by state) was more than 43 666 000 AZN (\$ 55 982 000 on the currency during that time). 65% of the grant amount was issued by local donor (12 out of them are state organizations).

Domestic financing became stable indeed while a decrease in foreign financing was observed.

The Cabinet of Ministers decided about making amendments to “Terms of registration of grant agreement (decisions)”, which was approved by the decision No 216 dated June 5, 2015, on January, 2017.

The amendment to the decision aimed at implementing the requirements of the 3rd clause of the Decree of the President of the Republic of Azerbaijan No 1083 dated October 21, 2016 on “the application of the principle of ‘single window’ in the procedure of issuing grants by foreign donors in the territory of the Republic of Azerbaijan”.

According to the amendment, the system of “single window” was created in the process of providing grants by foreign donors in the Republic of Azerbaijan. It means that getting the opinion on economical expediency of the grant and registration of the grant in relevant executive body will be implemented on the basis of an appeal and presenting the documents to “single window”. Before donor had to apply to various executive bodies separately and in turn, and present different documents to each institution. At the same time donor gained the right to appeal another body after receiving a positive response from one authority.

At the same time the person who receives grant on behalf of donor will be able to implement these procedures. These amendments have been made in order to receive grants from foreign foundations.

There are 3 forms of financing NGOs by the state of Azerbaijan.

These are the following:

- Issuing grants and financial support via competitions
- Providing direct subsidies
- Social orders

The Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan, operating since 2008, is the main state donor.

The Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan consists of 11 members. 8 out of them are the representatives of NGOs, suggested by NGO group, 3 of them are government representatives.

There is information in the reports of various international organizations in order to ensure transparency in issuing state support provided by the Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan and avoiding any political discrimination. Starting from 2010 it is stated in annual reports of the reports of US State Department on "Situation of human rights in the country" that no discrimination in the process of providing financial support by the Council has been detected and projects of the NGOs that criticize the government have been supported.

Organizations, which are known both in the country and international arena, criticizing the government policies, and protecting human rights, implement projects on preparing complaints against Azerbaijan to present European Court on Human Rights, alternative reports to periodic report of the government to present UN treaty bodies and analysis regarding the situation of human rights with the grants provided by the Council.

Within the visit, the Council's visit grants have been given to people, protecting human rights, for participating in different international events, including in the meetings of OSCE Human Dimension, Council of Europe, and UN and International Anticorruption networks.

Other foundations financing Public Unions and media:

- Youth Foundation
- Knowledge Foundation
- Foundation of state support to mass media

Additionally, 9 ministries or state agencies provide NGOs with grants.

Participation of Civil Society in decision-making

The below-mentioned bills have been prepared by NGOS in recent years:

1. On Voluntary Activity – it was adopted by the Parliament in 2009. The President of the Republic of Azerbaijan signed a Decree on applying the law.
2. On Public Participation – it was adopted in 2013. The President of the Republic of Azerbaijan signed a Decree regarding the application of the law.
3. On Social Orders – The bill has been submitted to the Parliament.
4. On Trade Organizations - The bill has been submitted to the Parliament.

The Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan achieved some amendments in some legislative acts based on the suggestions and applications submitted by civil society. Termination of compulsory audit inspection of NGOs has also been included in the amendments. Memorandum on cooperation has been signed between the Council and Parliament. NGOs function in various working groups established in Parliament aimed at preparing bills. Public

Councils, established under central executive bodies and consisting of representatives of NGOs, actively take part in the preparation of normative legal acts.

According to the requirements of Law on “Public participation” the Parliament signed a Memorandum of Understanding between National Assembly and the Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan on October 17, 2014. Memorandum will enable civil society institutions to take part in legislative process. All NGOs specialized in working groups, established for legislative process in the Parliament, will have an opportunity to participate.

There are dialogue platforms that civil society and government operates jointly in the country. The decisions are made on consensus in most of these platforms and the decisions that NGOs do not vote for cannot be accepted. Main platforms of cooperation and dialogue are the following:

- The Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan – consisting of 11 members. 8 of them are representatives of NGOs, 3 out of 11 represent the government (Presidential Administration, Ministry of Justice, and Ministry of Finance). NGO representatives are elected by secret ballot on respective groups and approved by the president for 4 years. The Council provides NGOs with financial, organizational, advisory and methodological support;
- Multilateral Group on Transparency Initiative¹ in Extractive Industry;
- “Joint Working Group on Human rights”, consisting of representatives of 3 branches of government and NGO representatives that defend human rights. The Group has been operating since 2005 and was established with joint initiative of the state of Azerbaijan and the Council of Europe;
- Commission on Pardon Issues under the President of the Republic of Azerbaijan (Representatives of NGOs and mass media are included in the Commission);
- Government-Civil Society Platform on Promoting Open Government – 10 state agencies and all interested NGOs are represented in the platform;
- Commission on early release of prisoners - Members of the commission are representatives of the Ministry of Justice and NGOs.
- Public Councils under the central and local executive bodies – They are formed by elections according to the law on Public Participation;
- “Aarhus centre” under the Ministry of Ecology and Natural Resources;
- And etc.

Citizen participation is taken into consideration necessarily in all State programs, as well as National Activity Plans, strategies and concepts, adopted in recent years.

¹ Transparency Initiative in Extractive Minerals Industry (TIEMI) is a standard adopted on transparency in oil, gas and mining industry. An important action was taken in order to apply TIEMI in the Republic of Azerbaijan on November 24, 2004. Mutual Memorandum of Understanding was signed on implementation of mechanisms of application of TIEMI in Azerbaijan between Commission on TIEMI and Commission on Increasing Transparency in Extractive Industry of local and foreign firms and NGOS. According to the agreement on the organization and activity of multilateral group regarding the application of TIEMI in Azerbaijan, TIEMI take part with equal rights and votes with government, business and NGOS in multilateral group.

Opportunities for access to information (legislature)

Legislative act, such as Law on Access to Information, on Freedom of Information, on Mass Media, and on Access to Information about Environment, determines the regulations of transmitting information (excepting confidential information and service use) to civil society and other entities. Responsibility for not providing information or failure in providing information completely and timely is determined in the legislation. There are court decisions in relation to state authorities, which do not provide access to information in national courts;

Functions of the Information Commissioner have been transferred to the Commissioner for Human Rights (Ombudsman) according to the Constitution;

Access to courts

Everyone owns the rights to appeal to court according to the Constitution of Azerbaijan. Civil society in our country uses judiciary mechanisms effectively. Civil society has the right to appeal to European Court on Human Rights,

Civil society has the right to appeal a complaint to the European Court of Human Rights, complaint procedure of 4 contractual bodies of the UN along with Courts in the country, and this right is widely used.

The freedom of activity of civil society

The establishment of an NGO is free and no permission is required from state agencies on this issue in advance. Public union can operate from the date of its foundation. State registration is only for getting the status of non-commercial legal entity. Owning such a status enables the public union to obtain bank account and to get in touch with tax and social protection agencies on its behalf. There are public unions that have not registered in the country and state authorities do not have a different approach against them in comparison with those who have status of non-commercial legal entity. These public unions use bank accounts of operator organizations in the process of financing.

In the following 4 cases NGOs have the obligation of updating information in state registry and are responsible for this. These are:

- While making amendments to the Charter;
- If the founders change;
- If the authority changes;
- If legal address changes.

Furthermore, foundations have to inform state registry and record the change when a change in the share capital.

Foundations may face with penalties if they breach the charter, or do not submit necessary reports and information to relevant state institutions (Ministries of Taxes, Social Protection, Finance and Justice).

The Ministry of Justice has the right to carry out inspections in order to learn the situation in NGOs. These inspections are aimed at preventing from transnational crime and money laundering.

Implementation of international legal commitments related to civil society

Legal base has been created by the state for ensuring freedom of activity of representatives of civil society, institutions and persons, which operate in economical, social, cultural and legal fields, as well as in the sphere of protection of fundamental rights and freedoms, promotion and awareness raising of universal human rights and freedoms and the independence of practical activity is ensured. There is no state control on the use of internet.

The UN Special Reporter on human rights defenders visited Azerbaijan in 2016, independently held meetings with the representatives of civil society, activists and conducted confidential interviews with any prisoner and accused persons in prisons.

There is a close cooperation with UN, the Council of Europe, OSCE and other organizations.

The state takes into consideration the following principles:

- **The principle of respect to human rights and freedoms**

State programs are regularly prepared to protect and promote human rights and freedoms. Participation of civil society is ensured in the process of preparation and execution of these documents. “National Activity Program regarding increasing the efficiency in protecting human rights and freedoms in the Republic of Azerbaijan” has been adopted.

- **The principle of participation**

There are mechanisms for civil society to take part in the decision-making process and to ensure public control on the activities of state agencies and information about it has been provided.

- **The principle of inadmissibility of discrimination**

There is no different approach regarding the participation of civil society institutions and representatives during the establishment of any cooperation platform. Representatives of civil society, which criticize the government, take part in platform and other cooperation mechanisms without discrimination. There is no discrimination in the process of financing by state foundations, including giving grants and participating in international events. There is information in the reports of various international organizations that the Council on State Support to NGOs under the Auspices of the President of the Republic of Azerbaijan ensures transparency in provision of financial support and does not discriminate politically. Starting from 2010 it is stated in the reports on “**Situation of human rights in the countries**” of US state Department that there is no

discrimination in providing financial support by the Council and projects of the NGOs, criticising the government, are supported².

Organizations, which are known both in the country and international arena, criticizing the government policies, and protecting human rights, implement projects on preparing complaints against Azerbaijan to present European Court on Human Rights, alternative reports to periodic report of the government to present UN treaty bodies and analysis regarding the situation of human rights with the grants provided by the Council.

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- **The principle of transparency and accountancy**

Special state programs have been adopted to provide transparency of the activities of the government. It includes the following:

- The government of Azerbaijan is the first country supporting Transparency Initiative on Extractive Industries and is represented there. Multilateral group, consisting of representatives of government, business and civil society, gets individualized information on income that government receives from extracting production and appoints auditor to check it. The opinion of the auditor is broadcasted on internet and by other means;
- The government of Azerbaijan has joined the initiative of International Open Government and government-civil society platform operates in the country. Azerbaijani state has adopted two National Activity Plans on promotion of open government. Participation of civil society has been widely ensured in the preparation of both plans. The participation of civil society exists in all stages of execution.
- A single door system, called "ASAN" service, has been established to increase transparency in Azerbaijan and to completely eliminate bribery during service. This model has been accepted by the UN as a service.

The freedom of activity of civil society representatives and activists (bloggers) on Internet

There is no state control over internet. No restriction on the activity of social network and search programs exists. More than 40% of the population of Azerbaijan have registered in social networking sites. Quick internet has been provided in all areas of the country.

There is no punishment for the activity in internet. Only responsibility for defamation is considered.

² Look: Azerbaijan 2013 human rights report, page 29, last paragraph
http://photos.state.gov/libraries/azerbaijan/749085/hrr/2013_Human_Rights_Report.pdf